

Child Care Safety: Certified Preschools

January 2018



Certified preschools are regulated under section 63.2-1717 of the VA code. In order for certified preschools to be license-exempt, they must be accredited by an accrediting organization recognized by the VA Board of Education. In addition, schools must meet certain conditions about the age of the children and the hours that a program can operate.

Certified Preschool History

In 2016, legislation was enacted that retained Section 63.2-1717 regulating certified preschools, however, the rules guiding the program were slightly modified/relaxed.

Prior law: Children are at least 3 years of age and do not attend more than 3 hours per day and 5 days per week.

- **2016 modification:** Children can attend 5 hours per day, with no more than 4 hours of instructional classes.

Prior law: No child under age 4 and the number of pupils in the program does not exceed 12 pupils per adult.

- **2016 modification:** No child under age 3.

Prior law: The school offers instructional classes and has been in operation since January 1984.

- **2016 Modification:** This condition was deleted.

Prior law: The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety, and welfare of children such as but not limited to space requirements and requires annual inspections.

- **2016 modification:** *“such as but not limited to space requirements and requires annual inspections”* was deleted.

Certified preschools must meet certain conditions.

The school must file with the commissioner annually, which includes:

- Intent to operate a certified preschool program
- Documentary evidence that the school has been accredited
- Documentation that the school has disclosed in writing to the parents that the program is license-exempt. (**2016 modification:** must post in a visible location on the premises)
- Documentary evidence that the facility will be 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 (whichever appropriate) and an inspection report that 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.
- Documentation that describes above for the parents
- Qualifications of school personnel who work in the program (it doesn't specify requirements, only refers to disclosure)
- **New 2016:** must report all serious injuries and deaths annually to the Commissioner
- **New 2016:** Requires employees who have contact with children to have a background check that complies with background check requirements applicable to child care programs
- **New 2016:** The Commissioner may conduct an annual inspection to ensure compliance with this section and conduct inspections to investigate complaints alleging noncompliance
- **2016 Deleted:** *“If the 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.”*

- Failure of a private school to comply with the provisions of this section or a finding that the health and safety of children are in danger upon completion of an investigation, shall be grounds for revocation of the certification.
- 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.

2018 Certified Preschool bills Under Consideration

SB 704/HB 869: Instead of requiring certified preschool employees to be subject to the same array of background checks required of child care providers (*fingerprints checks against state and federal records, a check of the sex offender registry and a check of the child abuse registry, plus if such individuals have lived out of state in the past 5 years, includes the same check within those states*), certified preschool employees would be subject to a subset of requirements.

- Why not apply the same background check to everyone as current law requires?
- This is about the safety of children, particularly for children under age 5.
- The federal government requires this comprehensive check of all licensed, regulated or registered child care providers to promote the safety of children.
- How does a more narrow background check protect children?

SB 702/HB 867: Supervisory requirements (child:staff ratio) for children would be related to an average school year attendance, rather than daily attendance.

- Child attendance can vary daily. Why would we want to legislate a ratio based on an annual average rather than the actual number of children in attendance?
- Child:staff ratios are intended to protect the safety of children. Setting ratios at an annual average

could mean that on some days, the safety of children could be at risk.

- How does this change promote the safety of children?

HB 868: This bill would repeal the code section regulating certified preschools.

- Current law includes a number of protections for children including that documentary evidence be provided that the facility will be inspected (i) before initial certification by the local building official and (ii) within annually by the local health department and local fire marshal (whichever appropriate) and an inspection report that 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.
- How does repealing this section of code improve the safety of children in these programs?



For 2018, Child Care Aware of Virginia recommends,

- Reviewing license-exempt categories and strengthening the law to promote the health and safety of children.
- Rejection of legislation that would weaken current safety protections for children.