

591-1-1-.46 Exemptions

(1) All programs providing group care for children shall obtain either a License, Permit or a commission for an early care and education program or an exemption from the Department, as applicable. Any person or entity operating or planning to operate a program that such a service believed to meets the criteria for exemption from licensure, as listed below, shall either apply to the Department for exemption by submitting the Department's online application for exemption or complete an online self-assessment through the Department, whichever is applicable.

(a) ~~Exemption~~ Requirements for Exemption Applications:

~~1.) The application for exemption shall be notarized and shall include:~~The following exemption categories are required to complete an online application for an exemption through the Department: Category (1) - Government Owned and Operated, if receiving Childcare and Parent Services (CAPS), Category (5) - Licensed Faith Based Accredited or Religious Schools, and Category (7) - Day Camp Programs or School Breaks for School-Aged Children, if receiving Childcare and Parent Services (CAPS). The application for exemption shall include the following:

(i) A valid and current e-mail address;

(ii) A written description of services, fees, ages of children to be served, months, days, and hours of operation and location;

(iii) Verification documentation of ownership type (e.g. Inc. or LLC, board sponsored, individual owner, etc.).

~~(iiiiv)~~ Copies of written policies, advertisements, parental agreement forms, and other materials to support the criteria for exemption as determined by the Department.

~~(ivv)~~ A sworn statement that the information provided to the Department is accurate and truthful.

2.) The exemptions granted by the Department are exemptions from licensure, and do not affect the authority of local, regional or state health department officials, the state fire marshal, local fire prevention officials, local or regional building officials or zoning officials to inspect and approve facilities and locations. Programs operated in a residence are not eligible for exemption. Additionally, the exemption is only valid at the address listed on the application.

3.) A program granted an exemption shall post in a prominent place near the front entrance of the facility both a copy of the exemption approval letter issued by the Department and a notice provided by the Department that will notify a Parent that the program is not licensed and is not required to be licensed by the state. The notice shall be at least ½ inch letters and shall contain the Department's telephone number and website address.

4.) A program approved for an exemption shall maintain attendance records for children. When a Parent initially registers a child with an exempt program, the Parent shall sign a form indicating the Parent has been advised and understands that the program is not licensed and is not required to be licensed by the state. The program must maintain the attendance records and parental notification forms during the time the child is enrolled in the program and for one year after the child no longer attends the program. All records shall be made available to any authorized representative of the Department upon request.

5.) Any program granted an exemption from licensure that subsequently loses accreditation, closes and/or ceases operation shall notify the Department in writing within five (5) business days of such a change. A program granted an exemption that has subsequent material changes in the operation of their program, such as, but not limited to, a change of physical location, a change in operating months, days, and/or hours, or a change in the ages served shall be required to submit an amendment or a new application for exemption to the Department.

6.) Programs granted an exemption may be required to periodically update the Department on the status of their exemption and operating information such as but not limited to submitting an annual report that would contain information related to the exemption approval.

7.) The Department may rescind an approval for exemption when one or more of the following is determined by the department:

(i) The program no longer meets the criteria for the exemption.

(ii) The program provided false information during the exemption request process or during an investigation.

(iii) The program failed to comply with local, regional, ~~and~~ or state health department, fire marshal, fire prevention, ~~and~~ or building/zoning guidelines/requirements.

(iv) The program failed to provide the Department with a valid and current e-mail address or with other information requested by the department, such as but not limited to, the months, days, and hours of operation, ages of children served ~~and~~ or operating address.

8.) A program granted an exemption from licensure that receives funding under the Childcare and Parent Services (CAPS) program must comply with the background check requirements as outlined in Rule 591-1-1-.09, Criminal Records and Comprehensive Background Checks.

(b) Requirements for Exemption Self-Assessments

1.) The following exemption categories shall complete an online self-assessment through the Department: Category (2) - National Membership School Aged, Category (3) - Private Schools, and Category (4) - Short Term Care. In addition, Category (1) - Government Owned and Operated and Category (7) - Day Camp Programs or School Breaks for School-Aged Children that will not participate in the Childcare and Parent Services (CAPS) program, shall also complete a self-assessment.

2.) Programs that self-assess, do not affect the authority of local, regional, or state health department officials, the state fire marshal, local fire prevention officials, local or regional building officials or zoning officials to inspect and approve facilities and locations. Programs operated in a residence are not eligible for self-assessment. Additionally, the self-assessment is only valid at the address listed and for the services indicated.

3.) A program that completes a self-assessment and deems itself exempt but has subsequent material changes in the operation of the program, such as, but not limited to, a change of physical location, a change in operating months, days, and/or hours, or a change in the ages served, shall complete a new self-assessment.

(b)(c) Exemption Categories. The following types of programs shall be exempt from licensure:

1.) Category (1) - Government Owned and Operated. Programs which are owned and operated by any department or agency of state, county, or municipal government. This includes, but is not limited to, the customary school day, as defined in Georgia law, and before- and/or after- school programs in public schools operated by the public school system and staffed with school system employees, ~~and~~ recreation programs operated by city or county parks and recreation departments and staffed with city or county employees, and charter schools that operate under the terms of a charter or contract, with an authorizer, such as the state and local boards of education in accordance with the Charter Schools Act, O.C.G.A. § 20-2-2060 et seq, and is recognized by the State Charter Schools Commission of Georgia.

2.) Category (2) – National Membership School-Aged. Any program or facility providing care for school-aged children that is operated by, or in affiliation with a national membership non-profit organization that

was created for the purpose of providing youth services and youth development, that charges a membership fee for children and may receive monthly, weekly, or daily fees for services. Such program or facility holds membership in good standing and is certified by its national association as complying with the association's purposes, procedures, minimum standards, and mandatory requirements. Private non-public educational programs with an established curriculum for children five (5) years and older that operate during the school term for the customary school day, as defined by Georgia law.

3.) Category (3) – Private Schools. Private school programs that meet one or more of the following:

(i) A private, either accredited or non-accredited, educational program which provides education in any grades from kindergarten through 12th grade, that operates during the school term for the customary school day, as defined by Georgia law, but that does not provide care before, after, or both before and after the customary school day.

(ii) A non-accredited private ~~non-public school~~ educational program which provides education in any grades from kindergarten through 12th grade, ~~meets the requirements under Georgia law for private schools (See O.C.G.A. § 20-2-690), and is accredited by one or more of the entities listed in O.C.G.A. § 20-3-519(6)(A) and which provides care before, after, or both before and after the customary school day, as defined in Georgia law, to its students as an auxiliary service, to such~~ students during the regular school year only. The accrediting entities listed in O.C.G.A. § 20-3-519(6)(A) are:

(i) The Southern Association of Colleges and Schools;

(ii) The Georgia Accrediting Commission;

(iii) The Georgia Association of Christian Schools;

(iv) The Association of Christian Schools International;

(v) The Georgia Private School Accreditation Council;

(vi) The Southern Association of Independent Schools;

(vii) The Accrediting Commission for Independent Study. (O.C.G.A. § 20-3-519(6.1)(A).

(iii) An accredited private educational program with an established curriculum for four-year-old children for the customary school day, as defined in Georgia law, that are not part of a full day Child Care Learning Center and are an integral part of an accredited private educational program that provides elementary or secondary instruction or both, providing the accreditation specifically covers these ages; any before and/or after school hours for four-year-old children who attend such a program as described above, provided the children do not leave the premises of the accredited private educational program and the program is staffed with employees of that private school.

4. ~~Accredited private non-public educational programs with an established curriculum for four-year-old children for the customary school day, as defined in Georgia law, that are not part of a full day Child Care Learning Center and are an integral part of an accredited private non-public school that provides elementary or secondary instruction or both, providing the accreditation specifically covers these ages; any before and/or after school hours for four-year-old children who attend such a program as described above, provided the children do not leave the premises of the accredited private non-public school and the program is staffed with employees of that private non-public school.~~

5. Parent's Morning Out, Parent's Night Out, or similar programs which operate for no more than one session of up to four (4) consecutive hours per day and which limit attendance to no more than eight (8) hours a week per child.

6. Nursery schools, playschools, kindergartens or other educational programs for children two (2) years through six (6) years of age which operate for no more than four (4) consecutive hours per day.

7. Day camp programs for children five (5) years and older that are operated between school terms, whose primary purpose is to provide organized recreational, religious, or instructional activities. The day camp programs may operate during summer and other school breaks and shall operate for no more than twelve (12) hours per day.

8. Short term educational or recreational activities or classes for children in which the supervision and care of the children are incidental to their participation in the activity or training in specific subjects, such as, but not limited to, music lessons, dance classes, swim lessons, etc. The provider is not assuming responsibility for supervision and care of the children outside of the classes or activities the children participate in and shall not advertise or otherwise represent that child care services are offered.

9. Any short term child care service provided by an establishment, such as, but not limited to, a religious facility, health club, or retail store, and such program or service meets all of the following:

(i) Operated on the premises of the establishment;

(ii) Operated for the convenience of the Parents and for the use of on-duty employees or students attending classes;

(iii) Parents are participating in activities provided by the establishment on the premises of the establishment;

(iv) Parents are readily available;

(v) Attendance of child in the short term child care service is limited to no more than four (4) hours per day and no more than ten (10) hours per week, except in the instance of child care services offered at infrequent events such as, but not limited to, conferences and weddings.

10. Programs operated after the customary school day, as defined in Georgia law, for children five (5) years and older that are strictly instructional and skill-based in a single talent, ability, expertise, proficiency or subject or in closely related skills, proficiencies or subjects, including but not limited to classes such as art, cheerleading, dance, drama, gymnastics, martial arts and music, and the programs comply with all of the following:

(i) Programs provide direct instruction in the single skill or subject and/or closely related skills or subjects to every child each day the child is present;

(ii) Programs do not provide services that are not directly related to the single skill or subject or to the closely related skills or subjects, such as but not limited to homework assistance. During the hours of operation, programs may provide services related to the instruction, such as transportation and giving children time to change into proper clothes/gear;

(iii) Programs shall not advertise or otherwise represent that the program is a child care facility, an after-school program, or that the program offers child care services;

(iv) Programs shall not prepare meals and snacks, but may provide ready to eat snacks, such as pre-packaged snacks;

~~(v) The majority of the program staff responsible for instruction shall possess specialized qualifications to instruct in that skill or subject, and the program shall submit documentation of such specialized qualifications of staff to the Department at the time of application for exemption or as requested by the Department;~~

~~(vi) Programs shall inform Parents about the physical risks a child may face while participating in the program;~~

~~(vii) Such programs shall not be an integral part of a licensed Child Care Learning Center;~~

~~(viii) Enrollment information shall clearly define the duration of the program.~~

11. Short term educational programs offered to school-aged children in which the supervision and care of the children are incidental to their participation in the short term educational program, and the provider is not assuming responsibility for the provision of daily child care outside the scheduled program. The majority of staff responsible for the direct delivery of education services to children possesses specialized qualifications that are directly related to the short term educational programs being offered, and the program shall submit documentation of such specialized qualifications to the department at the time of application for exemption or as requested by the Department. The sole or primary purpose of such short term educational programs is:

~~(i) To prepare children for advancement to the next educational level through a prescribed course of study or curriculum;~~

~~(ii) To provide specialized tutoring services through a prescribed course of study or curriculum to assist children with the passage of mandatory educational proficiency examinations;~~

~~(iii) To provide specialized tutoring services through a prescribed course of study or curriculum to assist children in specific academic areas, such as, but not limited to, foreign language, mathematics, science, etc.~~

12. Any program or facility providing care for school-aged children that is operated by, or in affiliation with a national membership non-profit organization that was created for the purpose of providing youth services and youth development, that charges a membership fee for children and may receive monthly, weekly, or daily fees for services. Such program or facility holds membership in good standing and is certified by its national association as complying with the association's purposes, procedures, minimum standards and mandatory requirements. Such national membership organizations include, but are not limited to, the Boys and Girls Clubs of America.

13. Any program providing group care for children for no pay.

4. Category (4) – Short Term Care. A program serving children for no more than four (4) hours a day, excluding before and after school care. This may include part-time preschool, parent's morning or night out, short-term educational or recreational classes, or single skill activities.

4.5. Category (5) – Licensed Faith Based Accredited or Religious Schools. A Center that is licensed by the Department may request an exemption from licensure if the Center's program is an integral part of an established religious congregation or religious school that conducts regularly scheduled classes, courses of study, or educational programs and is a member of, or accredited by, or certified by a state, regional, or national accrediting agency for religious educational instruction or a state, regional, or national accrediting agency for educational instruction as recognized and approved by the Department if such accrediting entity uses standards that are substantially similar to those established by the Department. In addition to the requirements listed above applicable to all exemptions, the following additional requirements shall apply to Centers seeking an exemption under this provision:

(i) A Center seeking such exemption from licensure shall be required to submit to the Department documentation of certification or accreditation, including a copy of its most recent certification or accreditation inspection report, and any other pertinent documentation as requested by the Department, such as non-profit tax-exempt verification. The accrediting agency must conduct regularly scheduled visits to the program while such program remains accredited.

(ii) If such exemption is granted, the program shall submit ~~annual~~ documentation to the Department verifying its continued certification or accreditation, including a copy of its most recent certification or accreditation inspection report, and other pertinent documentation as may be requested by the Department.

(iii) Such exemptions granted by the Department are valid as long as the program remains certified or accredited for all ages in which the certification or accreditation is approved. The program shall provide the Department written notice within five (5) business days of the program's loss of certification or accreditation, including a copy of such notification from the certifying or accrediting entity. The Department shall rescind the program's exemption granted herein upon notification of the loss of certification or accreditation.

(iv) Any Center seeking such exemption shall comply with all applicable requirements for background checks for Directors, Provisional Employees and Employees as required in O.C.G.A. § 20-1A-30 *et seq.*, Chapter 591-1-1, Rules for Child Care Learning Centers, Department policies, as well as applicable local, regional, and state health department, state fire marshal, and local fire prevention guidelines/requirements while such exemption is in effect. The Department retains jurisdiction over programs granted such exemption to conduct unannounced periodic background check audits and to conduct complaint investigations regarding compliance with background check requirements, as well as compliance with local, regional, and state health department, state fire marshal, and local fire prevention guidelines/requirements.

(v) The Department may rescind such exemption for a program's failure to comply with the requirements for background checks for directors/employees pursuant to O.C.G.A. § 20-1A-30 *et seq.*, Chapter 591-1-1, Rules for Child Care Learning Centers, and Department policies.

(vi) Any Center applying for such exemption that is owned and/or under the legal control/direction of the certifying or accrediting entity shall not be approved by the Department.

(vii) A Center seeking such exemption shall adopt and comply with the minimum standards of its certifying or accrediting entity for the operation of the Center's program. Such minimum standards adopted by the Center shall be published and made available to Parents of enrolled or prospective children upon request.

(viii) A program granted such exemption shall comply with the requirements regarding notification to Parents of enrolled children if the program does not carry liability insurance.

6. Category (6) – Reserved.

7. Category (7) – Day Camp Programs or School Breaks for School-Aged Children. Any program whose primary purpose is to provide organized recreational, religious, or instructional activities for children five (5) years and older that is operated during summer and other school breaks for no more than twelve (12) hours per day.

