



**Department of
Early Education and Care**
THE COMMONWEALTH OF MASSACHUSETTS

Small Group, Large Group and School Age Child Care Licensing

POLICY STATEMENT: Criteria for Exemption from Licensing

With certain exceptions, any facility operated on a regular basis that receives children for non-residential custody and care is licensable by the Department of Early Education and Care (EEC). See 102 CMR 7.02 Definitions.

Exemption Procedure

Programs must submit an Application for Child Care Licensing Exemption to the Department for review. Please note that EEC requires that additional documents be submitted along with most exemption applications. Please review the criteria carefully. Following review of the application, EEC will notify the program in writing whether or not it is exempt.

Children of Common Parentage

Child care is exempt from licensure if all children in care are related to the care giver by blood, marriage or adoption. A “relative” is defined as following relationships to the care giver by blood, marriage or adoption: Relative – A person who is a parent, grandparent, great grandparent, aunt, uncle, great aunt, great uncle or sibling by blood, marriage or adoption.

Regular Basis

Child care is exempt from licensure if the program is not operating on a “regular basis”. A program is not operating on a regular basis if the program operates 1 day per week or for no more than 10 weeks per year. (A program that provides care on a “regular basis” may still be exempt from licensing).

Occasional Care

Child care is exempt from licensure if the program is providing “occasional care” for specific children. Occasional care means that no child attends the program more than 4 hours per day and no child attends the program on more than 6 days per month. In order to be exempt, programs that are providing occasional care must have a system for attendance to ensure that the requirements of the exemption are being met.

Care giving situations that meet these conditions and wish to be considered exempt must notify all parents in writing of the following:

- That the child care services being offered by the program are not licensed by the Department of Early Education and Care or any other state agency;
- That each child may not attend more than 4 hours a day and no more than 6 days per month.

The program must submit to EEC a sample of these written guidelines with their exemption application.

Not Separate From Parents/Guardians

Child care is exempt from licensure if it is “not separate from parents/guardians” or other caretakers who accompany the child to the program. Child care is not separate from parents/guardians if the parents/guardians are in the same room during the entire time their children are in care. Further, child care is not separate from parents/guardians if the parents/guardians are on the same premises as the children and are immediately available to perform all caretaking tasks such as toileting, diapering, feeding and disciplining their children. In order for parents to be immediately available to their children, the following conditions must be met:

- Parents/guardians must not have any responsibilities or obligations that could prevent their responding promptly to their children’s basic needs; and
- There must be an effective system of communication between parents and caregivers when parent/guardian(s) are not in the same room.

Care giving situations that meet these conditions and wish to be considered exempt must notify all parents in writing of the following:

- That the child care services being offered by the program are not licensed by the Department of Early Education and Care or any other state agency;
- Parents/guardians must remain on the premises the entire time their children are in care;
- Parents/guardians must remain responsible for the basic care of their children (including, but not limited to diapering, toileting, feeding, and discipline) and must perform these duties as needed;
- Parents/guardians must respond immediately to their children’s caretaking needs as they arise;
- Parents/guardians must agree that if they fail to comply with these conditions of child care, the program will not be able to provide child care services for the child.

The program must submit to EEC a sample of these written guidelines with their exemption application.

Open Door Policy

Child Care is exempt from licensure if the program has an “open-door policy”, where children may drop-in during any or all of the hours that the program is open, and may come and go from the program at will.

Care giving situations that meet these conditions and wish to be considered exempt must notify all parents in writing of the following:

- That the child care services being offered by the program are not licensed by the Department of Early Education and Care or any other state agency;
- That program is offering drop in services and specifically describe the level of supervision that the children will receive while participating at the program;
- That the program is not responsible for the care or supervision of children beyond program closing time;
- That the children may arrive at or depart from the program at any time during their time at the program.

The program must submit to EEC a sample of these written guidelines with their exemption application.

Instructional Nature

Child Care is exempt from licensure if it is a program that offers a class or lesson that are of an “instructional nature” where a child may sign up for a time specific class or lesson and leave the program at the end of that class or lesson. The program must register these children in a formal manner and maintain documentation of each child, the class or lesson signed up for and the date, time and the duration of the class or lesson. Instructional care should be distinct, time limited sessions.

Care giving situations that meet these conditions and wish to be considered exempt must notify all parents in writing of the following

- That the child care services being offered by the program are not licensed by the Department of Early Education and Care or any other state agency.
- That all children must register for a specific class or lesson.
- That all children must leave upon completing the class or lesson.

The program must submit to EEC a sample of these written guidelines with their exemption application.

The program may not offer transportation services or formal child care programming where children move from one activity to another (i.e. snack, homework, free play, or from different disciplines of instruction).

Services Primarily Limited to Kindergarten, Nursery, or Preschool

Child Care is exempt from licensure if it is a “private organized educational system”, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services.

Step 1 - To be considered a private organized educational system, a program must be approved by the local education authority (school committee, school superintendent or designee) as an alternative to public school, in accordance with M.G.L. Ch.76.

- The program must submit the local education authority approval with the exemption application.

Step 2 - If a program provides documentation of appropriate approval, it will be exempt from licensure if 50% or more of the children enrolled in the system will have reached the age of 6 years by December 31st of the current calendar year.

- The program must submit a list of all children names and dates of birth with the exemption application.

Programs in which the enrollment of children attaining age 6 or older by December 31st is between 50% and 60% must submit enrollment information to the Department at the start of each school year, until such time as the enrollment of older children reaches 60%. Thereafter, the program’s enrollment will be reviewed only when there is a substantial change in the population served.

During Religious Services

Child care is exempt from licensure if it is limited to care of children for short periods of time while their parents or guardians are attending “religious services”.

The Department of Early Education and Care defines religious services for purposes of determining the need for licensure as acts of public or semi-public worship by members or adherents of a recognized church or religious denomination that, through adherence to a prescribed practice or ritual, expresses that church or denomination’s belief in and reverence for a super-human power or powers as creating or governing the universe.

Informal Cooperative Arrangement

Child care is exempt from licensure if it is an informal cooperative arrangement among neighbors or relatives. To be considered an “informal cooperative arrangement”, all of the following conditions must be met:

- There are no personnel receiving monetary or non-monetary compensation for their services.

- Parents may contribute money for equipment and supplies, however.
- All parents of the children in care regularly share in direct child care responsibilities. The provision of alternative services, such as book keeping or scheduling, does not satisfy this requirement.
- There is no separate legal entity entering into formal legal contracts such as leases, insurance contracts, or the like on behalf of or to enable the child care service. Parent schedules or agreements to participate are not considered formal legal contracts.
- The parents of the children involved live near each other, work or worship together, attend school together, or are affiliated in a way other than the child care arrangement.

Participation in structured activities does not preclude a child care arrangement from being considered informal and cooperative, if all of the above conditions are met.

Summer Camp

A program that operates only in the summer and is licensed by the Department of Public Health or by the Board of Health in the community where it is located is exempt from licensure.

Youth Group or Recreational Sport League

Child Care is exempt from licensure if the program being offered is a scout meeting, youth group meeting or a recreational sports league (examples would be - chess club, baseball, swimming, or other team sports).

School Vacations

Programs which operate only during school vacation weeks and additional days such as holidays are occasional care and not subject to licensure unless school age child care is provided for more than a total of thirty days during a calendar year.