

**GENERAL PROCEDURES FOR THE
LICENSURE OF CHILD DAY PROGRAMS
AND FAMILY DAY SYSTEMS AND
BACKGROUND CHECKS**

Effective February 1, 2026

**DEPARTMENT OF EDUCATION
COMMONWEALTH OF VIRGINIA**

**GENERAL PROCEDURES FOR THE LICENSURE OF CHILD DAY
PROGRAMS AND FAMILY DAY SYSTEMS AND BACKGROUND
CHECKS**

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**VIRGINIA DEPARTMENT OF EDUCATION
OFFICE OF CHILD CARE HEALTH AND SAFETY
101 N. 14TH STREET
RICHMOND, VIRGINIA 23219-1849**

PREAMBLE

The Virginia Board of Education has authority for regulations related to child day programs and family day systems pursuant to §§ [22.1-289.015](#) and [22.1-289.046](#) of the *Code of Virginia*. Effective February 1, 2026, this chapter, *General Procedures for the Licensure of Child Day Programs and Family Day Systems and Background Checks*, 8VAC20-821, replaces the following chapters:

- *General Procedures and Information for Licensure*, 8VAC20-820;
- *Background Checks for Child Day Programs and Family Day Systems*, 8VAC20-770; and
- *Fee Requirements for Processing Applications*, 8VAC20-830.

The State Board of Education has authority for the following set of standards applicable to child day programs and family day systems serving children under the age of 13 who are separated from their parents or guardians during a part of the day. The purposes of the standards are (i) to ensure that the activities, services, and facilities of child day programs and family day systems are conducive to the well-being and development of children and (ii) to reduce health and safety risks in the caregiving environment.

The Virginia Department of Education licenses family day homes, family day systems and child day centers, and enforces the standards through announced and unannounced inspections. Every effort is made to protect the rights of children in care and licensees by enforcing the standards using discretion and judgment. When appropriate, technical experts may be consulted to assure accurate compliance determination with the standards. Operators regulated by these standards may request an exception (allowable variance) for any standard that creates a special hardship unless the standard is required by law or another agency's regulation. Licensees are encouraged to discuss any concerns about licensing procedures, interpretation and application of standards, or the actions of licensing personnel with the licensing inspector and, if necessary, supervisory personnel at the field or home office level.

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Chapter 821

General Procedures for the Licensure of Child Day Programs and Family Day Systems and Background Checks

Part I. General

8VAC20-821-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Applicant" means any person that has applied for any license to operate or maintain a child day program or family day system.

"Background check" means (i) a sworn statement or affirmation; (ii) a fingerprint-based national criminal background check; (iii) a Virginia child protective services central registry check; and (iv) a check of the child abuse and neglect registry, criminal history record report, and sex offender registry for any state an individual has resided in within the past five years.

"Barrier crime" means a conviction defined as a barrier crime in § [19.2-392.02](#) of the *Code of Virginia* and shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

"Board" means the Virginia Board of Education.

"Child day center" means a child day program offered to (i) two or more children 13 years of age or younger in a facility that is not the residence of the provider or 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 13 years of age or younger for less than a 24-hour period.

"Conditional license" means a license that may be issued to a new facility to operate in order to permit the applicant to demonstrate compliance with licensing standards.

"Consent agreement" means a written agreement between an applicant or licensee and the department that the applicant or licensee will perform specific actions for the purpose of correcting violations to come into compliance with licensing standards or laws.

"Day" means a calendar day, unless otherwise specified.

8VAC20-821-10. Definitions.

"Denial" means the act of refusing to approve an initial application for license or a license renewal application for violations of any provision of [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia* or failure to comply with the limitations and licensing standards set forth in a license.

"Department" means the Virginia Department of Education.

"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 at least one but no more than 12 children 13 years of age or younger, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed family day home shall disclose to the parents or guardians of children in the provider's care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving at least five but no more than 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 younger than two years of age, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. 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.

"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 arrangements, may provide central administrative functions, including training of operators of family day 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.

"Final order" means a notification to a provider or facility of the department's final case decision to deny or revoke a license, exemption, or registration for child day programs or to summarily suspend part or all operations during an appeal of denial or revocation.

"Functional design" means the design features of buildings and grounds not regulated by the building code that are subject to licensing standards.

"Good character and reputation" or "good moral character and reputation" means a determination by the superintendent that an individual (i) maintains business or professional, family, and community relationships that are characterized by honesty, fairness, truthfulness, and dependability and (ii) is able to transact business in the Commonwealth and suitable to administer a program for the care, supervision, and protection of children.

"License" means a license that is issued pursuant to § [22.1-289.011](#) of the *Code of Virginia* to any person who constitutes, or who operates or maintains, a child day program or family day system.

8VAC20-821-10. Definitions.

"Licensee" means any person to whom a conditional license, a license, or a provisional license has been issued and who is legally responsible for compliance with the licensing standards related to the operation or maintenance of the child day program or family day system.

"Licensing standards" or "standards" means the standards of care and safety for operation of a child day program or family day system as set forth in this chapter, [Chapter 14.1](#) of Title 22.1 of the *Code of Virginia*, the *Standards for Licensed Child Day Centers* ([8VAC20-780](#)), the *Standards for Licensed Family Day Homes* ([8VAC20-800](#)), or the *Minimum Standards for Licensed Family Day Systems* ([8VAC20-810](#)).

"Living in" means staying at a child day center or family day home for more than 30 days out of a 45-day period.

"Person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child day program or family day system.

"Provisional license" means a license that may be issued when a licensee is temporarily unable to comply substantially with all of the requirements of the licensing standards.

"Registered" means a family day home that has met the standards for voluntary registration set forth in Voluntary Registration of Family Day Homes ([8VAC20-850](#)).

"Revocation" means the act of terminating a license during its effective dates for violations of any provision of [Chapter 14.1](#) of Title 22.1 of the *Code of Virginia* or failure to comply with the limitations and standards set forth in a license.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to [Title 22.1](#) of the *Code of Virginia* by the superintendent that has a stated duration of not more than 12 months. A special order is considered a case decision as defined in § [2.2-4001](#) of the *Code of Virginia*. The 12-month period begins 30 days after notification of the issuance of a special order or at the conclusion of all appeal steps.

"Superintendent" means the Superintendent of Public Instruction at the Department of Education and, except when prohibited by law, includes the superintendent's representatives.

"Sworn statement or affirmation" means a signed statement completed by a person attesting to whether the person has ever been (i) convicted of or the subject of pending charges of any crime within or outside the Commonwealth or an equivalent offense outside the Commonwealth or (ii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

8VAC20-821-10. Definitions.

"Variance" means a written determination by the superintendent that (i) a licensee or applicant for licensure as a child day program or family day system has demonstrated that implementation of a regulation promulgated by the board would impose a substantial financial or programmatic hardship and (ii) the suspension or modified implementation of such regulation would not adversely affect the safety and well-being of children in care.

Part II. Licensure Requirements

8VAC20-821-20. Necessity for license.

Every person that constitutes or that operates or maintains a child day program or family day system as defined in [Title 22.1](#) of the *Code of Virginia* shall obtain the appropriate license from the superintendent, which may be renewed.

8VAC20-821-30. License.

A. A license is issued to a specific person. A license is not transferable from one person to another.

B. A license issued under this chapter shall expire two years from the effective date of the license. The superintendent may extend or shorten the duration of licensure periods for a child day program or family day system whenever, at the superintendent's sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

C. A license shall be issued on a form prescribed by the superintendent.

D. The license and any other documents required by the superintendent shall be posted in a conspicuous place on the licensed premises.

E. A license shall be issued with the following terms:

1. The name of the person to whom the license is issued;
2. The date the license is effective and the date the license expires;
3. The name in which the licensee is doing business;
4. The physical location of the facility;
5. The maximum number of children who may be in care at any time;
6. The age range of children for whom care may be provided; and
7. Any other stipulations or conditions that the superintendent may prescribe within the context of the licensing standards or laws.

F. Any administrative sanction imposed by a special order or any sanction imposed by a final order shall be considered a term of the license.

8VAC20-821-40. Qualifications for licensure.

A. Each application for licensure shall be made to the superintendent, on the form prescribed by the superintendent, and shall include the following information:

1. The name and address of the applicant;
2. If the applicant is an association, partnership, limited liability company, or corporation, the name and address of the business entity and the names of its partners, members, officers, directors, or agents;
3. A description of the activities proposed to be engaged in;
4. A description of the facilities and services to be employed; and
5. Additional information as required by the superintendent as part of the application process.

B. The applicant shall submit a completed application, including all required documentation, and fee to the superintendent. No applicant may begin operations for which a license is required before being issued a license or a conditional license by the superintendent.

C. Every applicant for licensure as a child day program or family day system shall have the following qualifications:

1. The applicant and any of the applicant's partners, members, officers, directors, or agents shall be of good character and reputation.
2. The applicant and any of the applicant's partners, members, officers, directors, or agents shall submit to a background check in accordance with licensing standards.
3. The applicant shall disclose whether the applicant or any of the applicant's partners, members, officers, directors, or agents has ever had a license issued by any local, state, or national regulatory body that has been revoked, suspended, denied, or surrendered instead of an adverse action.
4. The applicant and any of the applicant's partners, members, officers, directors, or agents shall be at least 18 years of age.
5. The applicant shall demonstrate financial responsibility.
6. The applicant shall have completed a prelicensure orientation offered through or approved by the superintendent that focuses on health and safety standards, application processes, background check requirements, and general licensure requirements.
 - a. The superintendent may, at the superintendent's discretion, waive the prelicensure orientation requirement or issue a license conditioned upon the applicant's completion of the prelicensure orientation program.

8VAC20-821-40. Qualifications for licensure.

b. Applicants who have previously completed the prelicensure orientation program training and have not been subject to a license denial or revocation shall not be required to complete the prelicensure orientation program a second time.

7. The applicant shall demonstrate compliance with all applicable licensing standards.

D. Applicants for licensure as a child day center shall meet the requirements of 8VAC20-821-50 regarding buildings and functional design.

E. The applicant shall at all times allow the superintendent reasonable access and opportunity to make on-site inspection of the facility in order to determine compliance with applicable licensing standards.

F. The applicant shall allow the superintendent reasonable opportunity to inspect the applicant's records. Records that contain confidential proprietary information furnished to the department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § [2.2-3705.5](#) of the *Code of Virginia*.

G. The applicant shall allow the superintendent to interview the applicant's agents and employees and any person living or participating in the applicant's facilities or under the applicant's custody, control, direction, or supervision in accordance with subsection A of § [22.1-289.018](#) of the *Code of Virginia*.

H. It is the responsibility of the applicant to demonstrate qualifications for licensure and compliance with licensing standards. All determinations of qualification and compliance shall be at the discretion of the superintendent. Failure to demonstrate qualifications and compliance for licensure may constitute grounds for denying a license.

I. A license shall not be issued to an applicant who does not constitute or who does not operate or maintain a child day program or family day system as defined in [Title 22.1](#) of the *Code of Virginia*.

8VAC20-821-50. Buildings and functional design.

A. Buildings for applicants as child day programs or family day systems shall be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform Statewide Building Code ([13VAC5-63](#)).

B. An applicant for licensure as a child day center shall submit inspection reports from state or local fire authorities, as applicable, to determine compliance of the building with the Virginia Statewide Fire Prevention Code ([13VAC5-51](#)).

C. An applicant for licensure as a child day center shall submit inspection reports from state or local health authorities that shall include an inspection of general sanitation and, if applicable, water supply, sewage disposal systems, and food service operations for the building in which the facility is operated.

8VAC20-821-50. Buildings and functional design.

D. The building used by an applicant as a child day center shall meet all functional design requirements before approval for licensure.

E. Applicants are encouraged to consult as early as possible with the department regarding building plans and licensing standards in order to avoid noncompliance.

8VAC20-821-60. Modification of the terms of the license.

A. A licensee may submit a written request to the superintendent for a modification of the terms of the license at any time during the license period.

B. If the superintendent grants a modification, the department will issue a modified license reflecting the changes.

C. No modification shall be granted to change or replace the person to whom the license was granted.

8VAC20-821-70. Variances.

A. Any demonstration of hardship or request for a variance shall be made to the superintendent and shall be in writing on a form prescribed by the superintendent. The request for a variance shall include the following:

1. The specific standard for which the applicant or licensee is requesting a variance;
2. A detailed description of the substantial programmatic or financial hardship that will be caused by the applicant or licensee's compliance with the standard for which the variance is requested; and
3. The proposed alternative to the standard that will protect the safety and well-being of the children in care.

B. When requested by the superintendent, the applicant or licensee requesting the variance shall obtain additional information to substantiate either (i) that compliance with the standard will cause substantial programmatic or financial hardship or (ii) that the proposed alternative to the standard will protect the safety and well-being of the children in care. The additional information may include the opinions of professionals in the field, research, or studies.

C. The superintendent may attach conditions to a variance upon approval.

D. A variance may be rescinded or modified upon a change in the facts on which the superintendent relied in granting the variance.

E. A variance is not transferable between persons.

F. The superintendent shall review each approved variance at least annually.

G. An applicant or licensee shall not make the programmatic change for which the variance was requested before receiving written approval from the superintendent. Initiating the programmatic

8VAC20-821-70. Variances.

change before receiving approval for the requested variance may be grounds for denying the request for the variance and may constitute grounds for adverse action.

8VAC20-821-80. Conditional license.

A. The superintendent may issue a conditional license to an applicant in order to permit the applicant to demonstrate compliance with the requirements for licensure. A conditional license may be issued for a term not to exceed six months. A conditional license may be renewed, but a conditional license may not be held for longer than six months from the original issuance of the conditional license.

B. If, at the end of the conditional license, the applicant is still unable to demonstrate compliance with all of the licensure requirements, the application for licensure shall be denied unless a provisional license is issued.

C. A conditional license may be voided and a license issued if the superintendent determines that the applicant meets the qualifications for licensure.

8VAC20-821-90. Refusal of license issuance.

When issuance of a license for a child day program or family day system has been refused by the superintendent, the applicant shall not thereafter for a period of six months apply again for the license, unless the superintendent in the superintendent's sole discretion believes that there has been a change in the conditions on account of which the license was refused as to justify considering a new application. When an appeal is taken by the applicant pursuant to subsection A of § [22.1-289.024](#) of the *Code of Virginia*, the six-month period shall be extended until a final decision has been rendered on appeal.

Part III. Renewal

8VAC20-821-100. Renewal required.

Every person issued a license that has not been suspended or revoked shall renew the license before its expiration.

8VAC20-821-110. Qualifications for renewal.

A. Before the expiration date shown on the license, a licensee desiring to renew a license shall return to the superintendent a completed renewal application and appropriate fee. Failure to receive notices from the superintendent regarding license renewal does not relieve the licensee of the obligation to renew.

B. The renewal applicant shall have met the requirements of 8VAC20-821-50 regarding the approval of buildings and functional design.

C. The renewal applicant shall demonstrate compliance with licensing standards.

8VAC20-821-110. Qualifications for renewal.

D. As required by [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia*, the renewal applicant and any of the applicant's partners, members, officers, directors, or agents shall submit to a background check in accordance with licensing standards.

E. The renewal applicant shall at all times allow the superintendent reasonable access and opportunity to make on-site inspection of the proposed facility to determine compliance with licensing standards. The on-site inspections may occur at any time during the license term and may be unannounced.

F. The renewal applicant shall at all times allow the superintendent reasonable opportunity to inspect the renewal applicant's records. Records that contain confidential proprietary information furnished to the department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § [2.2-3705.5](#) of the *Code of Virginia*.

G. The renewal applicant shall at all times allow the superintendent to interview any person under the renewal applicant's custody, control, direction, or supervision. Interviews shall be (i) authorized by the person to be interviewed or the person's legally authorized representative and (ii) limited to discussion of issues related to the applicant's compliance with applicable laws and licensing standards.

H. It is the responsibility of the renewal applicant to demonstrate that the licensee meets all qualifications for renewal. All determinations of qualifications shall be at the discretion of the superintendent. Failure to demonstrate qualifications for licensure shall constitute grounds for denying a license renewal.

I. A license will not be renewed for a licensee who does not constitute or who does not operate or maintain a child day program or family day system as defined in [Title 22.1](#) of the *Code of Virginia* during the licensure period immediately preceding renewal.

8VAC20-821-120. Refusal of renewal.

A. The superintendent may refuse a renewal application for (i) failure to meet the qualifications for renewal or violation of licensing standards or (ii) failure to comply with the terms of a special order or final order issued by the superintendent.

B. When renewal of a license for a child day program or family day system has been refused by the superintendent, the applicant shall not, for a period of six months, apply again for the license, unless the superintendent in the superintendent's sole discretion believes that there has been a change in the conditions on account of which the license was refused as to justify considering a new application. When an appeal is taken by the applicant pursuant to subsection A of § [22.1-289.024](#) of the *Code of Virginia*, the six-month period shall be extended until a final decision has been rendered on appeal.

8VAC20-821-130. Provisional license.

A. The superintendent may issue a provisional license to a renewal applicant when the applicant is temporarily unable to comply with all of the licensure requirements. A provisional license may be issued for a term not to exceed six months. A provisional license may be renewed, but a provisional license may not be held for longer than six months from the original issuance of the provisional license.

8VAC20-821-130. Provisional license.

B. If, at the end of the provisional license, the renewal applicant is still unable to comply with all of the licensure requirements, the application for renewal shall be denied.

C. A provisional license may be voided and the license renewed if the superintendent determines that the renewal applicant meets the qualifications for renewal.

Part IV. Application Fees

8VAC20-821-140. Application fees nonrefundable; application date.

A. All application fees for licenses are nonrefundable.

B. The date that the application fee is received by the superintendent shall be the date that the application was received.

C. An applicant for initial licensure shall submit a completed application to the superintendent within six months of the date that the application was received. Applications that remain incomplete after six months of the date the application was received will be closed, and the applicant will be required to submit a new application with a new fee.

D. An applicant for license renewal shall submit a completed renewal application before the date the applicant's license expires.

E. Application fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

8VAC20-821-150. Application fees.

A. The fee required for each child day program will be based on its licensed capacity. The following fee schedule applies to child day programs that operate at least 12 weeks of a 12-month period:

Capacity	Two-year licensing fee
1-12	\$28
13-25	\$70
26-50	\$140
51-75	\$210

8VAC20-821-150. Application fees.

Capacity	Two-year licensing fee
76-200	\$280
201 or more	\$400

B. The following fee schedule applies to child day programs that operate less than 12 weeks of a 12-month period:

Capacity	Two-year licensing fee
1-50	\$50
51 or more	\$110

C. Family day systems will be subject to a license fee of \$140.

D. A fee will be charged for checks that must be returned to the applicant because of insufficient funds.

Part V. Background Checks

8VAC20-821-160. Scope of background check regulations.

This part applies to any person required to have a background check by [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia*.

8VAC20-821-170. Background checks required.

A. Any person required to have a background check shall follow the provisions of [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia* regarding background checks.

B. Any person 14 years of age or older living in the home of a licensed or registered family day home shall request a Virginia child protective services central registry check within seven days of reaching 14 years of age or beginning to live in the home.

8VAC20-821-180. Disqualifying background checks; prohibitions.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § [22.1-289.031](#) of the *Code of Virginia*, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § [19.2-392.02](#) of the *Code of Virginia* or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

8VAC20-821-180. Disqualifying background checks; prohibitions.

B. Notwithstanding the provisions of subsection A of this section, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § [18.2-57](#) of the *Code of Virginia*, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a child day center or the object of the offense was a minor.

C. If any person specified in subsection A of § [22.1-289.036](#) of the *Code of Virginia* (i) has been convicted of any barrier crime as defined in § [19.2-392.02](#) of the *Code of Virginia* or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such the person has not been granted a waiver by the superintendent pursuant to § [22.1-289.038](#) of the *Code of Virginia*, no license as a child day center, family day home, or family day system or registration as a family day home shall be granted by the superintendent and no approval as a family day home shall be granted by the family day system.

D. No person specified in subsection A of § [22.1-289.036](#) of the *Code of Virginia* shall be involved in the day-to-day operations of the child day center, family day home, or family day system, or shall be alone with, in control of, or supervising one or more children, without first having completed any required background check.

E. Dissemination of background check information is prohibited other than to the superintendent or a federal or state authority or court as may be required to comply with an express requirement of law for further dissemination.

8VAC20-821-190. Out-of-state background checks.

A. If any individual required to get a background check has lived in another state in the past five years and the results of the request for any component of the background check maintained by that state has not been returned, the person responsible for obtaining the background check shall obtain the following before the background check may be considered complete:

1. Documentation from the state on or after the date of the request if the state to which the request was made refuses to provide background check information due to the state's procedures for processing; or
2. Documentation showing that the person responsible for obtaining the background check contacted the state in writing to obtain the results of the background check at least 45 days after the initial first request.

B. Any documentation obtained pursuant to this section shall be maintained as part of the background check record.

8VAC20-821-200. New background checks.

The child day program or family day system, the department, or the registering or approving authority may require a new background check if there is reason to suspect that a person required to have a background check has a disqualifying background.

8VAC20-821-210. Maintenance of background check records.

A. A child day program or family day system shall keep background check records at its place of business for at least two years after an individual required to have a background check terminates duties with a facility or no longer resides in the home, unless federal or state law or regulation requires the records to be kept for longer. If multiple child day programs are owned by the same entity, the records may be kept at a single location and shall be made available to the superintendent upon request.

B. Background check records shall be kept in locked files or a secure electronic file, and access to the files should be restricted according to a principle of least privilege.

C. Family day systems shall keep background check records for family day homes approved by the system.

8VAC20-821-220. Waiver of criminal convictions.

A. Any person who seeks to operate, volunteer, or work at a child day program or family day system and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the department, pursuant to § [22.1-289.035](#), [22.1-289.036](#), or [22.1-289.039](#) of the *Code of Virginia*, may apply in writing for a waiver from the superintendent. The superintendent may grant a waiver if the superintendent determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care.

B. The superintendent shall not grant a waiver to any person who has been convicted of any barrier crime.

C. The superintendent may grant a waiver to a family day home licensed or registered by the department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § [18.2-57](#) or [18.2-57.2](#) of the *Code of Virginia*, or any substantially similar offense under the laws of another jurisdiction, provided that (i) five years have elapsed following the conviction and (ii) the department has conducted a home study that includes (a) an assessment of the safety of children placed in the home and (b) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if the adult has been convicted of a misdemeanor offense under both §§ [18.2-57](#) and [18.2-57.2](#), or any substantially similar offense under the laws of another jurisdiction.

D. The request for a waiver shall be submitted on a form prescribed by the superintendent.

E. Waivers are granted at the discretion of the superintendent and are not subject to appeal.

F. A waiver is granted to a specific person and shall include the following:

1. The name of the individual who is the subject of the waiver;
2. The name and location of the child day program or family day system;

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3. The effective date of the waiver;
4. Any stipulations or conditions upon which the waiver is granted;
5. The criminal conviction for which the waiver is granted;
6. The date of the criminal conviction; and
7. The signature of the superintendent.

G. A person to whom a waiver is granted shall notify the superintendent if any of the terms, stipulations, or conditions upon which the waiver was granted have changed and shall request a modification from the superintendent if appropriate.

H. The superintendent may rescind a waiver if the superintendent determines that (i) the waiver application contained materially false or misleading information, (ii) the stipulations or conditions upon which the waiver was granted have been violated, or (iii) the person no longer meets the criteria for a waiver.

I. A waiver automatically expires when the individual who is the subject of the waiver no longer lives in the home.

8VAC20-821-230. Public notification of waivers.

A. The child day program or family day system shall post any waiver granted by the superintendent in a conspicuous place at the location listed on the waiver.

B. Any waiver granted under this section shall be available for inspection by the public. The child day program or family day system shall notify in writing every parent of the children in its care of any waiver granted by the superintendent, as well as notify in writing the parent of any child enrolled after the waiver becomes effective.

Part VI. Standards of Conduct

8VAC20-821-240. Determination of continued compliance.

A. In order to determine continued compliance with licensing standards during the effective dates of the license, the superintendent will perform inspections in accordance with § [22.1-289.018](#) of the *Code of Virginia*.

B. The licensee is responsible for correcting any areas of noncompliance found during any inspection.

8VAC20-821-250. Maintenance of license.

A. An applicant or licensee shall at all times keep the superintendent informed of its current mailing address, telephone number, and email address.

8VAC20-821-250. Maintenance of license.

B. An applicant or licensee shall notify the superintendent immediately of any change of ownership or business formation.

8VAC20-821-260. Provision of records to the superintendent.

An applicant or licensee shall produce any records to the superintendent during an inspection or within the timeframe specified by the superintendent if an extension is granted. Records produced for the superintendent pursuant to this section that contain confidential or proprietary information shall be exempt from disclosure pursuant to subdivision 4 of § [2.2-3705.5](#) of the *Code of Virginia*.

8VAC20-821-270. Prohibited acts.

The following are prohibited acts by an applicant or licensee and may be subject to enforcement and sanctions:

1. Furnishing substantially inaccurate or incomplete information to the superintendent in obtaining, renewing, reinstating, or maintaining a license;
2. Making any materially false or misleading statement to the superintendent with respect to the operation of any child day program or family day system;
3. Failure to operate within the terms of a license or variance;
4. Failure to obtain from the superintendent a modification pursuant to 8VAC20-821-60 or variance pursuant to 8VAC20-821-70 before making programmatic or operational changes for which a modification or variance is required;
5. Failure to obtain a background check in accordance with [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia*;
6. Failure to post the following documents in a conspicuous location on the premises of each facility:
 - a. The most recently issued license;
 - b. Any conditional or provisional license, which shall be posted at each public entrance of the facility, and a notice, which shall be prominently displayed next to the license, that states that a description of specific violations of licensing standards to be corrected and the deadline for completion of such corrections is available for inspection at the facility or on the facility's website, if applicable;
 - c. Notice of the superintendent's intent to revoke or deny renewal of the license of a child day program or family day system. Such notice will be provided by the department and shall be posted in a prominent place at each public entrance of the facility to advise consumers of serious or persistent violations;

8VAC20-821-270. Prohibited acts.

- d. A copy of any final order of summary suspension of all or part of a license for a child day program or family day system operated by an agency of the Commonwealth shall be prominently displayed by the provider at each public entrance of the facility, or the provider may display a written statement summarizing the terms of the order, printed in clear and legible size and typeface, in a prominent location and identifying the location within the facility where the final order of summary suspension may be reviewed;
 - e. Any notice of the superintendent's intent to take any of the actions enumerated in subdivisions B 1 through B 6 of § [22.1-289.023](#) of the *Code of Virginia*. The notice will be provided by the department, and a copy of the notice shall be posted in a prominent place at each public entrance of the facility to advise consumers of serious or persistent violations;
 - f. A copy of any special order issued by the department shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations; and
 - g. Any other documents required by the superintendent;
7. Failure to correct any area of noncompliance found during any inspection;
 8. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility;
 9. A licensee being convicted of any barrier crime as defined in § [19.2-392.02](#) of the *Code of Virginia* or being the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
 10. Hiring for compensated employment, continuing to employ, or permitting to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § [19.2-392.02](#) of the *Code of Virginia* or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
 11. Failure to notify the superintendent that anyone required to have a background check under § [22.1-289.036](#) of the *Code of Virginia* has been convicted of a barrier crime as defined in § [19.2-392.02](#) of the *Code of Virginia* or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
 12. Engaging in conduct or practices that are in violation of laws or regulations relating to abuse, neglect, or exploitation of children;
 13. Interfering with the superintendent in the discharge of the superintendent's licensing duties, which includes forbidding the superintendent access to a location when at least one child is in care; and

8VAC20-821-270. Prohibited acts.

14. Failure to comply with the terms of a special order or final order issued by the superintendent.

Part VII. Violation Review

8VAC20-821-280. Review process.

A. If an applicant or licensee believes that a licensing standard has been applied or interpreted in a manner that is arbitrary or capricious, the applicant or licensee may request a review by program supervisory personnel.

B. A request for review shall be in writing and shall be made within five business days of receiving a notice of violation. The request shall contain the following information:

1. The date that the application of the licensing standard that is being challenged was made;
2. The reasons why the applicant or licensee believes that the application of the licensing standard was arbitrary or capricious; and
3. All relevant documentation supporting the rationale of the applicant or licensee that the application of the licensing standard was arbitrary or capricious.

C. Nothing in this section shall be construed to prohibit the superintendent from exercising the superintendent's responsibility and authority, including proceeding directly to the imposition of administrative sanctions, summary suspension, or recommending petitions for injunction.

Part VIII. Sanctions

8VAC20-821-290. Administrative sanctions.

A. Notwithstanding any other provision of law, following a proceeding as provided in § [2.2-4019](#) of the *Code of Virginia*, the superintendent may issue a special order for the following:

1. Violation of any of the provisions or any regulation adopted under the provisions of [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia* or § [54.1-3408](#) of the *Code of Virginia* for which violation adversely affects or is an imminent and substantial threat to the health, safety, or welfare of the person being cared for; or
2. Permitting, aiding, or abetting the commission of any illegal act in a child day program or family day system.

B. Notice of the superintendent's intent to take any of the actions enumerated in subdivisions C 1 through C 6 of this section shall be provided by the department, and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered

8VAC20-821-290. Administrative sanctions.

a case decision as defined in § [2.2-4001](#) of the *Code of Virginia*. Actions set forth in subsection C of this section may be appealed by (i) a child day program or family day system operated by an agency of the Commonwealth in accordance with § [22.1-289.025](#) of the *Code of Virginia* or (ii) any other child day program or family day system in accordance with the [Administrative Process Act](#) (§ 2.2-4000 et seq. of the *Code of Virginia*). The superintendent shall not delegate the superintendent's authority to impose civil penalties in conjunction with the issuance of special orders.

C. The superintendent may take the following actions regarding child day programs and family day systems through the issuance of a special order and may require a copy of the special order provided by the department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of the license and that the health and safety of children is at risk;
2. Reduce the licensed capacity or prohibit new admissions when the superintendent concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;
3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the superintendent concludes that the lack of the training has led directly to violations of regulations;
4. Assess civil penalties of not more than \$500 per inspection upon finding that the child day program or family day system is substantially out of compliance with the terms of its license and the health and safety of children is at risk; however, no civil penalty shall be imposed pursuant to this subdivision on any child day program or family day system operated by an agency of the Commonwealth;
5. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and
6. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

8VAC20-821-300. Revocation and denial.

The superintendent may revoke or deny the renewal of the license of any child day program or family day system that violates any provision of this chapter, [Chapter 14.1](#) (§ 22.1-289.02 et seq.) of Title 22.1 of the *Code of Virginia*, or fails to comply with the limitations and standards set forth in its license.

8VAC20-821-310. Summary suspension.

The superintendent may, in accordance with the provisions of § [22.1-289.022](#) of the *Code of Virginia*, issue a notice of summary suspension of the license of any child day program or family day system, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the child day program or family day system that pose an immediate and substantial threat to the health, safety, and welfare of the children receiving care, and the superintendent believes the operation of the child day program or family day system should be suspended during the pendency of the proceeding.

8VAC20-821-320. Consent agreements.

Instead of an adverse action, an applicant or licensee may request to enter into a consent agreement with the superintendent. If an applicant or licensee enters into a consent agreement with the superintendent, the consent agreement shall include the following:

1. Dates of key actions and events and the names of the parties;
2. An assertion that all violations detailed in the notice of intent have been corrected;
3. A description in detail of the case-specific systemic solution proposed that addresses the causes of the history of violations, including the methods the licensee has in place to prevent violations and to monitor results;
4. A stipulation by the licensee to the validity of the violations enumerated in the specified correspondence and a waiver of all rights to an informal conference or hearing under the [Administrative Process Act](#) (§ 2.2-4000 et seq. of the *Code of Virginia*) related to those violations;
5. A statement by the licensee that all determinations as to whether the terms of the agreement are being implemented and the intended results achieved are at the sole discretion of the superintendent;
6. The duration of the consent agreement. The consent agreement will be effective once signed by both parties;
7. A statement that when the superintendent signs the agreement, signifying final acceptance, the superintendent is also agreeing to rescind the outstanding adverse action, and that the licensee is agreeing to withdraw all appeals to that action; and
8. A statement outlining conditions for termination of the consent agreement and the nature of the licensee's appeal rights in that event.

Part IX. Appeals

8VAC20-821-330. Appeal from renewal of refusal to issue a license, denial of renewal, or revocation of license.

A. Whenever the superintendent refuses to issue a license or to renew a license or revokes a license for a child day program or family day system operated by an agency of the Commonwealth, the provisions of § [22.1-289.025](#) the *Code of Virginia* shall apply.

B. Whenever the superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or family day system other than a child day program or family day system operated by an agency of the Commonwealth, the provisions of the [Administrative Process Act](#) (§ 2.2-4000 et seq. of the *Code of Virginia*) shall apply. Appeals from notice of the superintendent's intent to refuse to issue or renew or revoke a license shall be received in writing from the child day program or family day system operator within 15 days of the date of receipt of the notice.

C. Judicial review of a final review of the agency decision shall be in accordance with the provisions of the Administrative Process Act and any applicable Rules of the Supreme Court of Virginia. No stay may be granted upon appeal to the Supreme Court or the Court of Appeals.