



NAECS-SDE : Listserv Summary

Early Childhood Program Licensing Exemptions

Michelle Horowitz, BA
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Question Posed to State Early Education Administrators

Why do states exempt certain early childhood programs from licensing requirements? States could exempt certain programs for a variety of reasons, such as schools already being monitored by another state agency for example.

The Importance of State Licensing Regulations

State child care licensing regulations ensure the protection of children’s health and safety when they are in the care of others. All states have certain legal exemptions from licensing and--depending on the type of early childhood program--these licensing exemptions may vary. Licensing exemptions apply to child care and home care centers, and school-based programs may also have exemptions, depending on the operating schedule of the program or the type of program.

Background/Context:

States use licensing requirements in order to ensure the health and safety of children in their state early childhood programs, by setting a baseline of mandatory requirements all providers who supervise young children should follow. They can help explain if there are gaps in basic health and safety policy that should be addressed, or if there are other high quality practices programs should be adopting. CEELO wanted to determine which states have exceptions to licensing requirements and what those exceptions are.

Methodology:

The NAECS-SDE listserv is used by members to make announcements, survey states about resources, and gain information on key policy questions. The summaries are not intended for official reports or research, as the information shared is voluntary and not verified as official statements from states. If a member wishes to use the summaries for official reports or research, explicit permission must be granted.

CEELO proposed the following question in the listserv for consideration:

“Does your state exempt school based pre-K from child care licensing requirements, and if so, why (e.g., limited hours of operation, sponsored by public schools, other systems of oversight)? Please share any background information if available.”

Responses

Among the 26 states responding to this inquiry, 12 states completely exempt public-school-based programs: CT, IA, IL, KS, LA, MA, NE, NV, NM, RI, TN, and WV. Five states allow no exemptions: CO, MI, NC, NH, and OH. Seven states have some variation: IN, ME, MD, MO, OK, SC, and WI. For some states the question did not apply, for example Montana, which does not have any requirement. Idaho also has a unique situation, in which the state’s federally funded programs, such as Head Start, Special Education Early Intervention, some Title 1 Programs, and 21st Century grant preschool programs, requirements apply in lieu of the state’s child care licensing regulations. Details of the variations are outlined in the table below. Resources providing more information can be found at the end of the document.

States are often incorporating QRIS levels into safety and quality guiding roles for programs, both within and outside public schools. For other states, funding for programs depends on meeting certain levels of licensing and/or quality, either via licensing regulations, QRIS participation, or other monitoring. For example, school-based preschool in Rhode Island is not licensed through child care licensing requirements, but rather, a set of regulations created by the state which ensures comparability in quality, regardless of preschool setting. This was part of their Race to the Top Early Learning Challenge work. In Wisconsin, state-funded 4-year-old kindergarten is considered as a grade level of the public school system. Therefore, they are exempt from licensing rules, with some exceptions. If they are partnered with a Head Start or child care center, the children enrolled would be part of that program’s licensing requirements. Depending on the type of program the child is enrolled in, there are different licensing requirements.

The table below includes responses from states who participated in the listserv and describes their states requirements. Links to specific state laws are included where applicable.

State	Exempt	Response to Listserv	Weblink
Colorado	No	Colorado requires licensing of all programs serving children funded by the Colorado Preschool Program and/or preschool special education. We are now in the process of helping districts understand and access Colorado's revised QRIS.	Legal Exemption from a Child Care License
Connecticut	Yes	In Connecticut there is a licensure exemption for programs that are “administered by a public school system.” This exemption includes preschool programs. We are currently working with the CT Association of Public School Superintendents to review the issue of licensing preschool in public schools. We have completed “mock” licensing visits to several license-exempt preschool programs that are administered by schools to gather information, and are in the process of cross-walking licensing requirements with public school local health and safety requirements.	Statutes and Regulations for Licensing Child Care Centers and Group Day Care Homes
Idaho	NA	Idaho does not have any state funded preschool programs. We do have federally funded programs	Daycare

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		such as Head Start, Special Education Early Intervention, some Title 1 Programs, and a few 21st Century grant preschool programs. However, none of these are tied to our child care licensing requirements and they follow their own federal requirements.	Licensing
Illinois	Yes	In Illinois, preschool programs operated by public or private elementary school systems, or secondary level school units, or institutions of higher learning that serve children who have attained the age of 3 years, do not have to be licensed by the Illinois Department of Child and Family Services (DCFS). There are health and safety checks as part of the inspections required for schools.	Part 377 Facilities and Programs Exempt from Licensure
Indiana	Mixed	<p>Indiana requires any program that receives state funding for preschool to be rated at the highest QRIS levels (3 or 4).</p> <p>Public schools are considered a licensing exemption and may operate preschool for 3-5 year olds without regulation from our licensing agency, Family and Social Services/ Office of Early Childhood and Out of School Learning. Only schools who desire to accept the state-funded initiative are required to participate in licensing/QRIS. There are actually many avenues for licensing exemption in Indiana. Traditionally, public schools have other systems of oversight and operate within buildings that are generally considered safe and in good repair.</p>	Family and Social Services Administration Laws, Rules & Related Policies
Iowa	Yes	<p>Since schools are under the auspices of the Department of Education and local school boards, Iowa exempts preschool programs from child care licensing. If a school is operating a child care program for ages 6 weeks to age 13 they must be licensed. This was a recent law change.</p> <p>Our licensing agency, DHS, does exempt school based program sometimes, based on limited hours or if they deem it an instructional program. This might include 21st Century Learning.</p>	Chapter 237A Child Care Facilities
Kansas	Yes	Kansas does not require school-based preschools (half-day) to be licensed by our Child Care Licensing. We have a MOU with the Kansas Dept. Of Health	Exemption from KDHE Licensing for

State	Exempt	Response to Listserv	Weblink
		and Environment to cover this. The rationale is that schools have to meet fire codes and other requirements.	Full-Day Pre-K Programs for Children Four Years of Age Located In Nonpublic School-Based Setting
Louisiana	Yes	Louisiana does not require state funded preschool programs on public school campuses to be licensed. Their oversight is through the Board of Elementary and Secondary Education (BESE), and their operations are covered under BESE policies and other state health/safety for schools regulations.	Part CLXI. Bulletin 137-Louisiana Early Learning Center Licensing Regulations
Maine	Mixed	Any program in partnership with a public preschool must be licensed and rated a Level IV on our QRIS system (highest level) as well as employ a ME certified preschool teacher no matter where it is located. If the program is in a public school without a partnering agency, our Basic School Approval Rules apply and it does not have to be licensed. Maine just adopted standards for public preschool programs (part of our Basic School Approval) that mirror licensing and QRIS requirements to some extent (although not a perfect crosswalk).	Rules for the Licensing of Child Care Facilities
Maryland	Mixed	Public school preschool is exempt from child care licensing, but must follow Prekindergarten program regulations as set forth by "COMAR 13A.06.02 Prekindergarten Program." For preschool expansion sites receiving grant funding, those classrooms must participate and achieve level 5 in our State QRIS system (Maryland EXCELS).	Title 13A State Board of Education Subtitle 14 Child and Family Day Care Chapter 02 Child Care Licensing
Massachusetts	Yes	In Massachusetts, licensing regulations for child care programs can be found in 606 CMR 7.00: Standards for the Licensure or Approval of Family Child Care; Small Group and School Age and Large Group and School Age Child Care Programs. In 606 CMR 7.02, definitions of terms used in the regulations can be found. Public school preschools are not required to seek or obtain licensing from the Department of	Small Group, Large Group, and School Age Child Care Licensing Policy Statement: Criteria for Exemption

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		<p>Early Education and Care. We do not define public school preschools as license-exempt programs because by nature of our regulations, public schools are not included, so they do not need to seek exemption from licensing.</p> <p>Of note, if a community-based child care program operates within a public school building, it must seek licensure from the Department of Early Education and Care.</p>	from Licensing
Michigan	No	<p>All Great Start Readiness Programs in MI are licensed regardless of provider type, with one exception--tribal nations, as they are exempt from licensing within the licensing rules. Currently, MI has only one tribal provider of GSRP as this is a new area of provider type for the state.</p>	Licensing Rules for Child Care Centers
Missouri	Mixed	<p>Missouri Preschool Programs are required to be licensed by Missouri Department of Health and Senior Services, Section for Child Care Regulation.</p> <p>Title I preschool, ECSE and locally funded school district programs are exempt from child care licensing with Department of Health and Senior Services. Oversight of these programs is by the local school district. School districts have local fire and sanitation inspections for all of their facilities.</p>	Laws, Regulations, and Guidelines: Child Care
Montana	NA	<p>Montana does not have any such requirement.</p>	
Nebraska	Yes	<p>School district early childhood programs are not required to be licensed in Nebraska.</p>	Title 391 Children's Services Licensing- Chapter 5: Preschool
Nevada	Yes	<p>In Nevada, school based preschool programs are exempt from child care licensing, I believe, primarily because of financial implications and related limitations of school facilities.</p>	
New Hampshire	No	<p>School based preschool must meet child care licensing in NH.</p>	Quality Initiatives & Licensing Exemptions

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New Mexico	Yes	New Mexico does not require licensing for Pre-K programs operated by a school district or state charter school.	
North Carolina	No	NC requires all public schools and private (community-based) programs that receive pre-k funding to participate in the state's QRIS at the highest star levels (4 or 5 star ratings). This includes meeting child care licensing. While school-based programs/classrooms that receive state pre-K funds (NC Pre-K) are required to participate in QRIS, classrooms operated by the public schools utilizing other funding sources, e.g., Title I, IDEA 619 Part B, are under no obligation to be licensed. While encouraged to participate in QRIS, no such mandate exists for public school classrooms funded with resources other than NC Pre-K funds.	North Carolina Child Care Law and Rules
Ohio	No	Ohio school districts must meet licensing requirements in our state. Ohio has licensing rules for preschool programs in public districts and private schools (Ohio Dept. of Education monitors and conducts on-site visits) and these rules must meet or exceed child care licensing rules (child care licensing is conducted by Ohio Dept. of Job and Family Services for community based child care programs). We have been working over last several years to align those rules across our agencies and create a common data system to capture this data and TQRIS data on all types of programs.	
Oklahoma	Partial	<p>School-based preschools are not exempt at this time. They are required to meet our licensing requirements for Health and Safety. The only programs we exempt are licensed for Health and Safety from another licensing source (Military—DOD, Out of state (currently one in Texas is licensed by Texas Child Care Licensing, and Tribal are licensed by the tribe).</p> <p>Oklahoma Public School Pre-K programs operate under the rules and regulations of school law.</p> <p>Oklahoma law in Section 401 et. Seq. of Title 10 in the Oklahoma Statutes, the Oklahoma Child Care Facilities Licensing Act (effective after June 30, 1964); public schools during typical school hours</p>	Preschool Program Licensing Rules Chapter 3301-37 of the Administrative Code

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	Yes	<p>aren't required to be licensed by Child Care Services.</p> <p>Out-of-school time programs aren't required to be licensed if they 1) are operated 15 hours or less per week; 2) operate during typical school hours by a public or private school that offers elementary education from kindergarten through third grade; or 3) are on a tribal country land or federal property.</p>	
Rhode Island	Yes	<p>School-based preschool in Rhode Island is not licensed via child care licensing requirements, but does have to meet a set of regulations called the Basic Education Program (BEP) Regulations. The statutory authority for child care licensing does not extend to public schools. As part of our RTT-ELC work as we were defining a continuum of program quality standards, we did conduct an alignment between child care licensing regulations and the BEP. There was pretty comparable alignment in most areas. However, in order to ensure comparability regardless of setting for state-funded preschool (and others who apply voluntarily), misalignment was addressed (e.g. the higher standard was included) during the revision of the Comprehensive Early Childhood Education (CECE) Program Standards. State-funded preschool programs, regardless of setting, are required to achieve CECE Approval.</p>	<p>Basic Education Program Regulations</p>
South Carolina	Mixed	<p>South Carolina requires state funded preschool in public schools to be licensed by Child Care Licensing. The majority of the state's school districts fall under this requirement now that 4K has greatly expanded. But school districts with locally funded 4K are exempt based on the agreement that public schools have regulations in place already.</p>	
Tennessee	No	<p>Tennessee VPK must meet guidelines of Child Care Standards of Tennessee as regulated by the Department of Education or the Department of Human Services. A child care agency may submit a request for an exemption to the Department of Human Services but otherwise classrooms are expected to meet all licensing requirements.</p>	<p>Scope of Services for 2013-14 Voluntary Pre-K for Tennessee Programs</p>
West Virginia	Yes	<p>West Virginia preschool programs operated by school districts are not required to obtain or hold child care licensure. This is addressed in state code</p>	<p>West Virginia Family Child Care Facility</p>

State	Exempt	Response to Listserv	Weblink
		<p>for residential child care centers; however, state preschool policy is aligned with child care licensure and Head Start regulations to support collaboration. State preschool policy requires 50% collaboration with child care and Head Start. West Virginia’s collaboration rate for 2014-2015 was 79%. Those operated by Head Start and child care sites must be child care licensed.</p> <p>District teams utilize a universal health and safety checklist in each classroom that encompasses child care licensing regulations, Head Start Health and Safety Screener, and WV Pre-K Policy to assist collaborative teams in meeting health and safety requirements. District pre-k collaboratives must incorporate results from the Health and Safety Checklists, classroom observation tools, and aggregated child assessment data to implement a pre-k continuous quality improvement process.</p>	<p>Licensing Requirements</p>
Wisconsin	Mixed	<p>In Wisconsin, state-funded 4-year-old kindergarten is considered a grade level of the public school system. They are totally exempt from licensing unless they are partnering with a child care or Head Start center. If they partner with child care or Head Start, then the 4K children are part of the child care or Head Start licensing. Schools that run child care are exempt from licensing directly, but the state law is that school boards are supposed to follow child care licensing requirements without having the monitoring and oversight from the DCF licensing system. If the district uses child care subsidy, they are expected to be part of the QRIS system.</p>	<p>Wisconsin Child Care Licensing Rules and Manuals</p>

It is clear from the state responses that there is a range of approaches to licensing early childhood education programs, and providing exemptions to programs operated in public schools. This may depend on where most programs are housed; funding and monitoring for the programs; and participation in other guiding activities, such as QRIS involvement. More resources on this topic are identified below.

Additional Resources

[A Foundation for Quality Improvement Systems: State Licensing, Preschool, and QRIS Program Quality Standards](#)

[NARA Webinar: Trends in Child Care Licensing Regulations and Policies](#)

[Office of Child Care Technical Assistance Network: Types of Facilities & Exemptions](#)

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