

R430. Health, Health Systems Improvement, Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

R430-8-1. Legal Authority.

R430-8-2. Purpose.

This rule defines what constitutes child care that is exempt from regulation by the Utah Department of Health, Bureau of Child Care Licensing.

R430-8-3. Definitions.

- (1) "Parochial education institution" means an institution that meets all of the following criteria:
 - (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;
 - (b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;
 - (c) is owned and operated by a religious institution that is registered with the federal government as 501(c)(3) religious organization;
 - (d) is not directly funded at public expense;
 - (e) does not receive:
 - (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services;
or
 - (ii) child care food program funds, directly or indirectly, from the State Office of Education; and
 - (f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.
- (2) "Private education institution" means an institution that meets all of the following criteria:
 - (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;
 - (b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;
 - (c) is not directly funded at public expense;
 - (d) does not receive:
 - (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services;
or
 - (ii) child care food program funds, directly or indirectly, from the State Office of Education; and
 - (e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.
- (3) "Public school" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.
- (4) "Related children" means children for whom the child care provider is the:
 - (a) parent, legal guardian, or step-parent;
 - (b) grandparent, step-grandparent, or great-grandparent;
 - (c) sibling or step-sibling; or
 - (d) aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

R430-8-4. Care Not in Lieu of Parental Care.

- (1) A license is not required for care that meets all of the following:
 - (a) the parent is physically present in the building where the care is provided, at all times while the care is being provided, and is near enough to reach his or her child to provide care within five minutes if needed;

- (b) the duration of the care is less than four hours for any individual child in any one day;
- (c) the program does not diaper children; and
- (d) the program does not prepare or serve meals to children.

R430-8-5. Care Under Other Government Oversight.

- (1) A license is not required for care provided at a facility that is owned or operated by the federal government.
- (2) A license is not required for care provided by a program that is owned or operated by the federal government.
- (3) A license is not required for care provided as part of a summer camp that operates on federal land pursuant to a federal permit.
- (4) A license is not required for care provided by an organization that qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, if:
 - (a) the care is provided pursuant to a written agreement with a local municipality or a county;
 - (b) the local municipality or county provides oversight of the program; and
 - (c) all of the children in care are over age four.
- (5) A license is not required for care provided at a residential support program that is licensed by the Department of Human Services.

R430-8-6. Mental Health Counseling.

A license is not required for group counseling of children provided by a mental health therapist who is licensed to practice in this state, as defined in Utah Code 58-60-102.

R430-8-7. Relative Care.

The Department does not issue licenses or certificates to persons who only care for related children.

R430-8-8. Care in the Home of the Provider.

- (1) A license or certificate is not required for care provided in the home of the provider for less than four hours per day, or for fewer than five children in the home at one time.
- (2) The Department does not issue licenses or certificates for care provided in the home of the provider on a sporadic basis only.

R430-8-9. Care Provided by an Educational Institution.

- (1) A license is not required for care provided by or at a public school or as part of a course of study at a public school.
- (2) A license is not required for care provided at a public or private institution of higher education if the care is provided in connection with a course of study at the institution of higher education.
- (3) A license is not required for:
 - (a) care provided as part of a course of study at a private education institution; or
 - (b) care provided as part of a program administered by a private education institution.
- (4) A license is not required for care provided by a parochial education institution.

R430-8-10. Care for less than Three Days a Week.

- (1) A license or certificate is not required if the provider offers care on no more than two days during any calendar week. A calendar week means from Sunday through Saturday.

R430-8-11. Voluntary Licensure.

- (1) A child care provider defined as exempt under this rule may voluntarily receive a license and agree to be subject to all of the terms and conditions of the license, except for the following:
 - (a) relative care under section R430-8-7 above; and
 - (b) care provided in the home of the provider on a sporadic basis only under subsection R430-8-8(2) above.

KEY: child care facilities

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