

SUBCHAPTER d: LICENSING ADMINISTRATION
PROCEDURES 377
FACILITIES AND PROGRAMS EXEMPT FROM LICENSURE
June 1, 2012 – P.T. 2012.08

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Section 377.1 Purpose

These Procedures are used by licensing representatives to determine compliance or non-compliance with **Rules 377**. **Rules 377** implement provisions of the Child Care Act of 1969 [25 ILCS 10] which exempt certain child care arrangements from licensure as child care facilities. With the exception of Part day child care facilities (**Rule 377.4**), the Department does not maintain a continuing relationship with licensed-exempt facilities. Normally the licensing representative's relationship with such facilities shall be limited to responding to inquiries intended to verify that a particular facility or program is exempt from licensure or investigating complaints that the facility or program is operating outside the parameters of its exempt status.

Any facility or program claiming that it is exempt from licensure under provisions of the Child Care Act of 1969 or **Rules 377** has the burden of demonstrating that it meets the criteria for the exemption it claims.

These Procedures are formatted (headings and numbering schemes) when possible to match the rules which they implement. Some sections of the rules may be so self-explanatory as not to require a corresponding procedure. In such instances, that section of the procedure will be blank, with a designation in the margin of double equal signs (= =).

= = **Section 377.2 Definition**

“Intermittent” means occasional, sporadic, not continuous or steady, not having regularity or predictability. Occurring at irregular intervals. A program that provides care intermittently does so with no set schedule or pattern to either its operation or to a particular child’s attendance.

“Periodic” means appearing or occurring at regular intervals with some predictability, having a marked or repeated cycle. A program that operates periodically provides care on a predictable, but not continuous or regular basis. Offering care only during the summer school break and not through the rest of the school year would not be considered periodic basis because care is provided continuously during the rather large period of May through August.

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Programs that offer care with regular availability but for which enrollment is broken up into week-long “sessions,” “classes,” or “camps” (for which activities or programming differ but parents may chose all offerings consecutively, thus providing child care on a continuous basis), are not considered as operating on an “intermittent” or “periodic” basis. Example: A program such as a YMCA that offers basketball camp 8:00 am through 5:00 pm, Monday through Friday on Week 1 of summer vacation, swimming camp on Week 2 from 8:00 am through 5:00 pm, Monday through Friday, and craft camp on Week 3 from 8:00 am through 5:00 pm, Monday through Friday, and for which the parents are allowed to enroll their children in 8 or 12 consecutive week-long camps is not operating on an intermittent or periodic basis. These programs are considered an all-day school-age summer child care program and that are subject to licensure.

Section 377.3 Day Programs Exempt From Licensure

a) All schools exempt from licensure under **Rule 377.3(a)** are exempt only insofar as they enroll children "who have attained the age of 3 years" (see **Rule 377.2 Definitions**). A day care center license is required if any children under age 3 are served -- even if the majority of the children are 3 years of age or older.

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2) The Illinois State Board of Education (ISBE) has two voluntary procedures relating to non-public schools that exempt these schools from licensure as day care centers if all the children served have "attained the age of 3 years" and the requirements of this Section are met.

A) The first of these, registration, requires that the facility complete and file a "Non-Public School Registration, Enrollment and Staff Report" with ISBE. In addition to providing ISBE information on the number of children enrolled (by age range and sex), the Report provides information regarding the number of instructional and non-instructional staff (in full-time equivalence); and affiliation of the school (independent, Montessori, religious, etc.). The Report also requires assurance of compliance with state laws regarding attendance, applicable state or local fire safety requirements, and non-discrimination. The "Non-Public School Registration, Enrollment and Staff Report" is submitted annually to ISBE through the Regional Superintendent of Schools.

B) The second process used by ISBE is recognition. In addition to meeting the requirements for registration, recognition requires that the school set forth its educational objectives and curriculum in such a manner that these can be examined by objective observers. The operators of the school must then request that ISBE (through the Regional Superintendent of Schools) visit the school for the purpose of evaluating the extent to which the school meets its stated philosophical and operational goals and program objectives. On the basis of this visit the State Superintendent assigns a status of "full recognition," "probationary recognition," or "non-recognition" to the school.

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If approved, the school is issued a Certificate of Non-Public School Recognition. Continued recognition is contingent upon the school's submitting annual reports to ISBE and periodic visits to the school by staff of ISBE or the Regional Superintendent of Schools.

Schools, or that portion of schools, recognized by ISBE are exempt from licensure as day care centers under Section 2.09 (b) of the Child Care Act [225 ILCS 10/2.09] . Documentation of that recognized status is a "Certificate of Non-Public School Recognition" issued by ISBE.

- 3) **Section 2.09 (c) of the Child Care Act** exempts from licensure as day care centers those schools registered with ISBE that are "... recognized or accredited by a recognized national or multi-state educational organization or association that regularly recognizes or accredits schools."

Currently, the Department recognizes these organizations or associations as meeting the requirements of the Child Care Act for purposes of this exemption:

American Montessori Society
Association Montessori International
Association For The Legal Support of Alternative Schools
Independent Association of Schools of the Central States (IASCS)

Schools claiming exemption from licensure on the basis of recognition or accreditation by these organizations are required to produce the certificate of recognition or accreditation issued by the organization in addition to a receipted copy of the "Non-Public School Registration, Enrollment and Staff Report" filed with ISBE. Provisional recognition or accreditation by the above-cited organizations is acceptable for compliance with the Child Care Act, but status as "associate member" or "affiliate member" is not acceptable.

Should the licensing representative encounter other organizations or associations whose recognition or accreditation is being relied upon for purposes of the above referenced exemption, the licensing representative should secure as much information about the organization from the facility claiming the exemption as possible (including the name and address of the organization, any information regarding its accreditation criteria and procedures.) The licensing representative shall not initiate contact with the recognizing or accrediting organization. Rather, the information shall be submitted to the Associate Deputy Director for Licensing for follow-up and determination of whether accreditation or recognition by the organization meets the requirements of the Child Care Act.

NOTE: Since the name "Montessori" is in the public domain and available for use by any organization, the licensing representative shall determine that any Montessori recognition or accreditation certificate accepted is from one of the organizations specifically named above.

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- 1) Section 2.09 (e) of the Child Care Act exempts from licensure as day care centers "... facilities operated in connection with a shopping center or service, religious services, or other similar activity, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available." This exemption does not include day care provided on the premises by some employers for their staff since the children are presumed to be in regular attendance (and therefore not "transient") and the parent or custodian is not "readily available" when their job responsibilities take them elsewhere than the day care center.

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- c) When counting the number of children served by a day care home, the number counted includes the family's natural and adopted children and all children under the age of 12. To qualify for this exemption, no more than three children under the age of 12 can be in the home at any time day care is being provided. (When the children cared for are from the same household, there are no restrictions as to their age or number.)

d) Partially Exempt Programs

Partially exempt programs are those child care programs for children who have attained the age of 3 years and are operated by a private entity on grounds of a public or private elementary or secondary school where children have been attending school during the day. In a partially exempt program, the physical facility is exempt from Department regulations; however, the Department regulates the personnel and operating programs as a day care center. See **Rule 407, Licensing Standards for Day Care Centers** for more specific information what is exempt.

e) Requirements for At-Risk After School Snack/Supper Programs

After school programs that participate in the At-Risk After-School Snack/Supper Program funded by the federal government and administered by the Illinois State Board of Education (ISBE) and seek to be license exempt by the Department of Children and Family Services, shall submit a Request Packet containing:

- 1) A request the Department in writing for a letter of exemption;

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- 2) A completed ISBE 68-80 form. This 4 page form is intended to provide all required information necessary for Department staff to make a decision regarding whether the facility/program is license exempt or subject to licensure. Information contained in the ISBE 68-80 form includes:
 - Identifying information of the requestor and operators of the facility, responsible organization and facility name, address, phone and location of the program within the building;
 - Number and ages of children served;
 - Program hours;
 - Program description ; and
 - Role, name, and number of involved staff ;
- 3) A certificate of Health and Fire Clearance Inspection from the appropriate authorities that demonstrates the building where the program is located has been violation free;
- 4) All Illinois Sex Offender Registry clearances and **CFS 689, Authorization for Background Checks for Programs NOT Licensed by DCFS** conducted by the State Central Registry (SCR) for each person in the program;
- 5) All documentation required to demonstrate that the facility/program meets criteria for any **Rule 377** license exemption. For example, a program operated by a church or religious institution as described in Section 501(c) (3) of the federal Internal Revenue Code shall submit a current copy of the U.S. Department of Treasury Letter validating the church's/institution's 501(c)(3) Tax Exempt status; and
- 6) Send all completed Request Packets to the Department of Children and Family Services, Cook County Licensing Unit, 1911 S. Indiana, 9th Floor Chicago, IL 60616.

Procedures the Department shall follow upon receiving a complete Request Packet:

- 7) The Cook County Licensing Unit office associate shall record the receipt of all of the Request Packets into a "read only" tracking log. The office associate shall distribute the packets by either mailing the packet to the appropriate Regional Licensing Administrator for downstate offices or by placing the packet in the appropriate Cook County day care licensing supervisor's mailbox;
- 8) The Regional Licensing Administrator (RLA) or Cook county licensing supervisor shall assess whether the facility/program is license exempt or subject to licensure based on the information contained in the Request Packet. The RLA or supervisor shall document his/her assessment by marking the appropriate box on page 4 of the ISBE 68-80, and shall sign the bottom of page 4.

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- 9) The RLA/licensing supervisor shall notify the Cook County Licensing Unit office associate whether the facility/program is license exempt or subject to licensure. A copy of the Request Packet shall be maintained on file at the respective regional licensing office.
- 10) The Cook County Licensing Unit office associate shall update the tracking log,
- 11) The RLA/licensing supervisor shall return to the requesting facility/program the signed Request Packet including one of the following applicable letters:
 - **CFS 672-1 Facility/Program Exempt form Licensure**
 - **CFS 672-2 Facility/Program Subject to Licensure**
 - **CFS 672-4 License Exempt Program Review**
- 12) The RLA/licensing supervisor shall return an incomplete Request Packet (including all attachments) to the requesting facility/program with a **CFS 672-3, Incomplete Packet Letter** that identifies why the packet is incomplete. The RLA/licensing supervisor shall inform the Cook County Licensing Unit office associate, via e-mail, of the date the incomplete packet was returned to the facility. The office associate shall data enter the packet's return date into the tracking log.

Section 377.4 Part Day Child Care Facilities

Unlike the programs described in [Section 377.3](#) whose exempt status may be self-determined and verified by the Department upon inquiry or complaint, part day child care facility's are required to notify the Department of their existence and provide documentation that they qualify as part day child care facilities. Any facility operating as a part day child care facility without complying with the requirements of **Rule 377.4** shall be regarded as an unlicensed child care facility until the requirements of the rule are complied with.

- a) Part day child care facilities are required to file with the Department a notice or a letter from an official of the church, religious organization or social service agency responsible for operation of the program that includes:
 - o The name of the church, religious organization or agency responsible for the program;
 - o The address where the program operates or intends to operate;
 - o The name, address and telephone number of the person(s) responsible for on-site supervision of the program;
 - o The usual days and hours that the program operates or intends to operate.

The facility shall attach a notarized certification that the facility complies with applicable health, fire and safety regulations. A statement that the facility complies with applicable

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health, fire and safety regulations may be included in the above notice/letter provided the entire notice/letter is notarized. Otherwise, a separate notarized statement certifying compliance with health, fire and safety regulations is required.

A photocopy of the trust instrument, certificate and articles of incorporation, articles of association or other instrument establishing the church, religious organization or social service agency as filed with the Secretary of State or clerk of the court of the county in which the church, religious organization or social service agency is located shall be attached.

- b) The organization responsible for a part day child care facility is required to notify the Department of its operation and certify its compliance with health, fire and safety regulations once every two years. If the licensing representative has reason to believe that a program that has not provided the Department with a renewal notice and certification of compliance and continues to operate, the licensing representative shall notify the church, religious organization, or social service agency responsible for the program that it is required to meet the requirements of **Rule 377.4(a)** within 30 days. If a renewal notice and certification is not received by the required date, the facility is operating as an unlicensed child care facility. Licensing enforcement action shall be initiated in accordance with Rule 383, Licensing Enforcement.

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- d) A part day child care facility is permitted to operate without restriction as to the ages of children served. A part day facility may also operate without limitation on the number of hours -- provided no child is cared for in the facility more than eight hours per week. However, a facility that operates more than eight hours per week is required to maintain records that contain each child's parent(s)' name, the telephone number at which the parent(s) can be reached, and the number of hours each child is cared for in the facility.

Irrespective of the hours of its operation or whether it charges fees for its services, a part day child care facility must comply with provisions of **Rule 377.4(d)** restricting release of children to persons authorized by the child's parent(s) or guardian; requiring identification of persons not known to the facility staff and maintaining "primary" and "contingency" lists of persons to whom a child may be released.

- e) **Rule 377.4** requires part day child care facilities to maintain the following records:
- o The name and telephone number of each child's parent(s) or guardian if the facility operates more than eight hours per week or charges fees for its services;
 - o The name of any person on the contingency list to which a child was released and the manner by which the child left the facility.

These records may be reviewed by the licensing representative to verify compliance with **Rule 377.4(d)** as well as to determine that the facility is operating within the hours it notified the Department that it would. If the licensing representative determines that the facility is operating more hours than those cited in its notification to the Department, the licensing

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representative shall notify the organization responsible for the program that it is required to amend its notification to the Department or be licensed as a day care center. The facility shall be treated as an unlicensed facility if it has failed to amend its notice within 30 days or it continues to operate longer hours than stated in the notification. Licensing enforcement action shall be initiated in accordance with **Rule 383**.

The licensing representative shall create and maintain a separate record for each part day child care facility and schedule these for biennial review.

- = = **Section 377.5** **Child Care Facilities Under Single Circuit Court**
- = = **Section 377.6** **License Required For Government Benefit**
- = = **Section 377.7** **Severability of This Part**