

MEMORANDUM

TO: Child Day Centers
Short Term Child Day Centers

FROM: Lynne Williams, Director

DATE: June 1, 2011

RE: Legislative Update, 2011

As you may know Senate Bill 802 was passed in this year's General Assembly session and becomes effective July 1, 2011. This bill made changes to § 63.2- 1734 of the Code of Virginia. A copy of the legislation and new Code language is attached. Below you will find guidance on what the changes to the Code are and how the Division of Licensing Programs will be working with centers to address the new requirements.

SB 802 **§63.2-1734**

1. What does SB 802 say?

SB 802 provides that regulations governing child day centers shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours. This means that if a child day center is housed in a public or private school, child day center regulations shall not prohibit school age children from using the outdoor playground equipment at the school.

2. What programs does this legislation affect?

Any child day program providing care for school-age children in a public or private school currently approved or recognized by the Dept of Education.

3. What is the definition of a school-age child?

"School age" means children eligible to attend public school, age five or older by September 30 of that same year. Four- or five-year-old children included in a group of school-age children may be considered school age during the summer months if the children will be entering kindergarten that year (22 VAC 15-30-10). For the purposes of this legislation, summer months begin June 21 of each year.

4. How will this affect the inspection of playground equipment and areas for affected programs?

For programs serving only school age children, if the outdoor playground is used by children in care:

- A. The licensing inspector will continue to inspect the outdoor playground equipment and areas
- B. The following standards will not be cited: 22 VAC 15-30-410 A-D; 22 VAC 15-30-500 C-D.
- C. If violations of the standards listed above are observed, inspectors will not issue a violation, but instead will provide consultation. Consultation will be documented in the comment section of the inspection summary and consist of a detailed description of the areas of concern. This description will indicate the specific equipment or areas that are of concern.
- D. Violations under 22 VAC 15-30-340 A and 350 A will not be cited if related to outdoor playground equipment and areas used by school age children.

E. For all other standards applicable to playgrounds other than those listed in B. above, the licensing inspector will continue to document noncompliance and violations will be cited, including but not limited to ratios, supervision, first aid kits, availability of drinking water, etc.

5. What about playgrounds used by children under the age of school age?

Inspections for playground equipment and areas for children under the age of school age shall remain the same.

6. Will I still have a stipulation on the child day center license that prohibits the use of the playground by school age children?

No, this legislation prohibits any stipulation that limits the use of outdoor playground equipment and areas by school age children in the programs described in question 2 above. If a program affected by this legislation currently has a stipulation on the license related to the playground equipment or areas, this stipulation will be removed and a corrected license without this stipulation will be issued and mailed to providers by July 1, 2011.

7. If the program serves both school age children and children under the age of school age, will there be a stipulation on the child day center license?

If playground equipment and areas are used by children under the age of school age and are not in compliance with child day center regulations, a stipulation may be issued to limit playground use. Only the specific equipment and areas that are noncompliant shall be included in the stipulation. The stipulation will be printed on the face of the license and will state: "Children in care under the age of school age are prohibited from using any playground equipment and areas that do not meet Child Day Center standards."

8. If an outdoor playground is not used by children in care, will inspectors be required to inspect the playground equipment and area?

No. The inspector may verify and document in the comments section of the inspection summary at each inspection that the playground is not in use by children in care.

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 139

An Act to amend and reenact § 63.2-1734 of the Code of Virginia, relating to regulation of child day programs; use of outdoor play equipment and areas.

[S 802]

Approved March 15, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1734 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1734. Regulations for child welfare agencies.

The Board, or in the case of child day centers, the Child Day-Care Council, shall adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation or accreditation services of any single private accreditation or certification agency.

Such regulations shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.