



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF SOCIAL SERVICES

**DATE:** October 16, 2018

**TO:** Subsidy recipients- Religiously Exempt Child Day Centers (CCE) and Local Government Approved Child Day Centers (LGA)

**FROM:** Tara Ragland, Director  
Division of Licensing -Children's Programs

**SUBJECT:** Child Care Program Regulation (22VAC40-665) - Subsidy inspection requirements

This memo is to inform you that the new Child Care Program regulation (22VAC40-665) will become effective on October 17, 2018. This subsidy regulation replaces and updates inspection requirements in the Subsidy Vendor Agreements. Inspections will be conducted using the Child Care Program regulation and not Appendix A of the Vendor Agreement.

Substantive changes are explained in the chart below. New requirements are indicated with an (\*). During a 60 day implementation period, between 10/17/2018-12/14/2018, areas of noncompliance identified with the new requirements will not be cited as violations. These findings will be noted in the comment box on the inspection summary. The requirements for which the implementation period applies to appear in bold in the chart below.

The updated requirements for subsidy vendors are found in the Child Care Program regulation (22VAC40-665) located at:  
[http://dss.virginia.gov/files/division/licensing/ucdprcca/vendor\\_agreements\\_inspection\\_requirements/subsidy\\_vendor\\_inspection\\_requirements\\_for\\_child\\_day\\_centers.pdf](http://dss.virginia.gov/files/division/licensing/ucdprcca/vendor_agreements_inspection_requirements/subsidy_vendor_inspection_requirements_for_child_day_centers.pdf)

Section	Substantive Changes
<b>22VAC40-665-470. Definitions; subsidy program requirements for</b>	*New definition of "child with special needs or disability" added. Incorporates the definition found in the Individuals with Disabilities Education Act and includes the conditions

<p><b>child day center vendors.</b></p>	<p>under which a child is considered a child with special needs or a disability.</p> <p>*New definition of group size added. "Group size" means the number of children assigned to a staff member or team of staff members occupying an individual room or area. <b>Note: The definition does <u>not</u> include requirements for a ‘well-defined space’ or language that would prohibit children in different groups from interacting with one another.</b></p>
<p><b>22VAC40-665-500. Operational responsibilities.</b></p>	<p>Background check requirements pursuant to § 63.2-1725 of the Code of Virginia are added to the regulation. <u>These are not new requirements</u>; these are references to current Code requirements that have been added to the subsidy regulation.</p> <p><b>*All staff who work with children must be informed of children’s allergies, sensitivities, and dietary restrictions.</b></p> <p><b>*A list of all children’s allergies must be kept confidentially in the room or area where children are present. Allergy information is no longer required to be posted.</b></p>
<p><b>22VAC40-665-530. Staff records.</b></p>	<p>Staff records must now include:</p> <ul style="list-style-type: none"> <li>• Satisfactory results of the fingerprint-based national criminal background check;</li> <li>• Satisfactory results of the Virginia Child Protective Services Central Registry check;</li> <li>• Sworn statement;</li> <li>• Satisfactory results of the child abuse and neglect registry from any other state in which the individual has resided in the preceding five years; and</li> <li>• Documentation of subsequent background checks conducted every five years.</li> </ul> <p><u>These are not new requirements.</u> The list of documentation required in a staff record has been updated to reflect current background checks required in the Code.</p>
<p><b>22VAC40-665-540. Health requirements for staff.</b></p>	<p><b>Tuberculosis screening is now required before coming into contact with children and documentation must have been completed within the last 30 calendar days of the date of employment.</b></p>

<b>22VAC40-665-570. General qualifications.</b>	Staff members less than 18 years of age must be supervised by an adult staff member who is present in the facility.
<b>22VAC40-665-580. Staff training and development.</b>	CPR/First Aid training is required for all staff within 90 days of the date of employment.  *Staff who is a registered nurse or licensed practical nurse with a current license from the Board of Nursing is not required to obtain first aid certification.
<b>22VAC40-665-650. Supervision, ratio, and group size requirements.</b>	<b>*Group size requirements added. For programs that operate more than six hours each day, group size must be implemented at all times except during meals or snacks, the designated rest period, evening and overnight sleep time, outdoor play, field trips, special group activities, or during the first and last hour of operation. There are no exceptions to group size for programs that operate less than six hours. See attachment on group size for additional information.</b>  <b>*A written policy and procedure to ensure care by consistent staff is now required.</b>  *Ratios may be doubled during rest periods if certain criteria are met.
<b>22VAC40-665-690. Forbidden actions.</b>	Forbidden actions were revised to provide clarity about the use of cribs, play yards, high chairs, and safety gates. It is not prohibited to use these items when children are "confined" by them if the equipment is being used appropriately.
<b>22VAC40-665-760. First aid and emergency supplies.</b>	<b>*An ice pack or cooling agent is now to be on each floor of the building used by children, accessible to outdoor play area, on field trips, in vehicles used for transportation, and wherever children are in care.</b>
<b>22VAC40-665-770. Procedures for emergencies.</b>	<b>*Procedures for the continuity of operations to ensure that essential functions are maintained during an emergency must be included in the emergency response plan.</b>

Free training on the subsidy inspection requirements is available. Please contact your licensing inspector for more details or if you have any questions.

**Child Care Program Regulation – Group Size Requirements- Additional Information for Child Day Centers that are Subsidy Approved**  
**Division of Licensing**

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**What is Group Size?**

"Group Size" means the number of children assigned to a staff member or team of staff members occupying an individual room or area.

Group size requirements were added to the Child Care Subsidy regulation, effective 10/17/18. Group size represents the maximum number of children that should be grouped together, distinct from the larger population of children, in a room or area with specific staff members.

**Child Day Center Subsidy Inspection Requirements – Group Size Requirements.**

TABLE 1. Maximum Group Size Requirements		
	Age	Maximum Group Size
1.	Birth up to 16 months	12
2.	16 months up to 24 months	15
3.	2 year olds	24
4.	3 year olds up to school age eligible	30

**\* The staff-to –children group size applicable to the youngest child in the group applies to the entire group.**

**\* Group size does not apply to school-age children.**

**What do I need to do to meet group size requirements?**

- Programs need to determine which children will be supervised by the same staff or the same team of staff, ensuring consistent care for children in each group.
- Each child should be a part of a group.
- In each group, the assigned staff will have primary responsibility for the children in their group.

**Consistent Care Policy**

- The center must develop a written policy and procedure to ensure care by consistent staff.
- Programs should determine how they want to ensure that children receive consistent care.

**Why is this good for children?**

Consistent care represents consistent, dependable relationships, which helps children build secure attachments. Children should have consistent caregivers in order to build a sense of security and trust. The goal is for children to have a limited number of caregivers during the course of a day.

### **Is group size required at all times?**

- No. Group size is not required when meals or snacks are served; during designated rest periods; evening and overnight sleep time; outdoor play; field trips; special group activities; or during the first and last hour of operation when the center operates more than six hours per day.
- In addition, more than one 'group' can be in an individual room or area and there is no requirement for groups to be divided by physical barriers.

### **Benefits of Group Size**

- Easier for staff to supervise the children.
- Increases opportunities for staff to become familiar with the behavior patterns, issues and concerns of individual children.
- Helps children develop social skills by allowing consistent opportunities to interact with a smaller group of children.

### **Questions and Answers: Group Size/ Consistent Care Requirements**

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***Q: In order to have more than one group occupy a space, are partitions or room dividers required?***

A: No. It is not necessary to define space in order to meet the requirement. Group size does not affect space.

***Q: What is the effective date to implement group size?***

A: The requirements are effective October 17, 2018. There will be an implementation period of approximately 60 days. During this period, violations of group size will not be cited, but noncompliance will be documented on the inspection summary.

***Q: Is group size an official requirement?***

A: Yes, for subsidy approved vendors. The requirement for group size is in the [Federal law as well as in the Child Care Subsidy regulation](#).

***Q: If I have questions about group size, who do I contact?***

A: Contact Tatanishia Armstrong, Program Consultant, at [Tatanishia.Armstrong@dss.virginia.gov](mailto:Tatanishia.Armstrong@dss.virginia.gov).