



**SPOTLIGHT ON LICENSING EXEMPTIONS:  
*A Review of State and Territory Licensing Exemptions Impacting  
School-Age Child Care***

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Each day, more than 8.4 million children participate in an afterschool program, and many more attend before-school, holiday, and summer programs. More than 27 million parents of school-age children are employed, and many parents report they would enroll their children in an afterschool program if one were available.<sup>1</sup> Afterschool programs play an important role in keeping children safe and healthy while parents are working or in school.<sup>2</sup> Additionally, high quality programs contribute to the academic success and social well-being of children and youth.<sup>3</sup> Afterschool programs can have a multitude of purposes and goals and take place in many different settings in the community. Despite the range of program settings and purposes, safety is the top concern of both professionals and parents.

How do parents know if a program is safe? Most parents assume that programs are licensed by a state agency, and few know very much about the licensing requirements or the licensing agency in their state, city or county. Child care licensing regulations are intended to establish standards for health and safety in child care programs, including those serving school-age children. Licensing regulations vary considerably by state, as do approaches to monitoring compliance and oversight of those programs that are regulated. Recently, national organizations concerned about child care licensing have identified a number of best practices and principles for strengthening child care licensing, as well as areas where states need to improve to ensure the minimum protections for children.<sup>4</sup>

The research conducted to date on licensing requirements has not addressed school-age exemptions in-depth, focusing primarily on early care and education programs. The research conducted for this brief is the first in-depth look at the types and settings of programs that are exempt from licensing for school-age children. As state and territory policymakers and other concerned stakeholders seek to improve the quality of care for

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1 Afterschool Alliance, "America After 3pm". Retrieved June 24, 2011 at: <http://www.afterschoolalliance.org/researchFactSheets.cfm>

2 The term afterschool programs is inclusive of any formal program that children attend during the out-of-school time.

3 Afterschool Alliance, "Afterschool Programs: Making a Difference in America's Communities by Improving Academic Achievement, Keeping Kids Safe and Helping Working Families. Retrieved July 5, 2011 at: [http://www.afterschoolalliance.org/documents/factsResearch/2011\\_Outcomes.pdf](http://www.afterschoolalliance.org/documents/factsResearch/2011_Outcomes.pdf)

4 See, "We Can Do Better: 2011 Update: NACCRRA's Ranking of State Child Care Center Regulation and Oversight" at [http://www.naccrra.org/publications/naccrra-publications/publications/WCDB\\_Executive\\_summary\\_030711.pdf](http://www.naccrra.org/publications/naccrra-publications/publications/WCDB_Executive_summary_030711.pdf); and "Strong Licensing: The Foundation for A Quality Early Care and Education System" at [http://www.naralicensing.org/Strong\\_Licensing](http://www.naralicensing.org/Strong_Licensing).

children in out-of-school time settings, a closer look at licensing exemptions within the context of a quality improvement system<sup>5</sup> for school-age children is needed.

## INTRODUCTION

State and territory child care licensing regulations define and set minimum health and safety standards for a variety of programs for children and youth. Licensing laws or regulations also typically define specific types of programs or activities that are exempt from licensing requirements. Over the past 20 years, a number of states have changed their licensing laws or regulations to require that significant standards be met which support quality programming—for example, increased adult-child ratios, increased pre-service staff training and education, and significant continuing professional development.<sup>6</sup> In recent years, licensing has become the gateway to quality improvement initiatives; for instance, licensing is required to participate in all of the 25 state-wide quality rating and improvement systems (QRIS).<sup>7</sup>

Currently, a review and analysis of licensing exemptions affecting school-age children in child care programs does not exist. This information is necessary for state child care administrators and licensing directors to develop effective policies and practices to increase access to safe, high quality programs for school-age children. The purpose of this resource is to identify school-age exemptions in state and territory laws or regulations, highlight common exemptions, and raise considerations for policymakers as they move forward in developing systems of quality improvement for all children.

### *Characteristics of School-Age Programs and Settings*

. Before and after-school and summer programs provide a safe place for children when parents are working and school is not open, and these programs may also have multiple purposes. However, each of these program types provide some level of structured activities for children and youth, and most offer activities that build social skills, provide homework help and other academic support, and build social and personal skills. (See Table 1: Purpose of School-Age Programs on page 3). School-age programs operate in many different settings and under various auspices. Settings include programs operated by private-for-profit organizations, non-profit organizations, and public entities (i.e. municipal and county programs) operating center-based programs, family child care homes, camps, school-based programs, and faith-based programs. Programs for school-age children also have a variety of goals and purposes – for example, they may be academically focused, recreationally based, or promote positive youth development through clubs or skill-building programs.

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<sup>5</sup> Quality improvement systems include the licensing system; the professional development system; and the quality rating and improvement system (or another defined quality improvement system). There are varying degrees of alignment among these systems in each state.

<sup>6</sup> Connors-Tadros, L. & Carlson-Cocodrilli, B. (October 2010) "Integrating Quality Rating Systems and Professional Development Systems in Early Childhood". In C. Howes and R. Pianta (Eds), *Connecting Early Childhood Quality Rating, Professional Development and Competency Systems in States*. Brookes Publishing Co.

<sup>7</sup> QRIS Elements, National Child Care Information Center, retrieved 5/12/11 at <http://nccic.acf.hhs.gov/poptopics/qrs-element.html>.

**Table 1: Purpose of School-Age Programs**

School-age professionals and parents have similar, yet somewhat differing opinions on the purpose of school-age programs. Based on a 2007 survey conducted on the *Child Care Exchange* web site, the information below compares goals that school-age professionals believe are important for school-age programs vs. what parents expect of school-age programs.

School-age Program Professionals	Parents
Safety: 29%	Safety: 36%
Social Skills: 22%	Social Skills: 8%
Fun/Enjoyment: 20%	Fun/Enjoyment: 15%
Comprehensive Child Development: 16%	Homework: 33%
Recreation/Exercise: 13%	Academics: 8%

Source: *School-Age Child Care Trend Report*, Roger Neugebauer, Child Care Exchange September/October 2007. Available online at: <http://www.ccie.com/library/5017707.pdf>.

Programs for children in out-of-school time are run by schools, youth organizations, churches, and other entities. Many state agencies and organizations provide oversight to programs that school-age children participate in during out-of-school time hours. School-based afterschool programs, typically those offered through the 21<sup>st</sup> Century Community Learning Centers program funded by U.S. Department of Education, are often exempt from licensing and monitored by the state department of education.<sup>8</sup> Depending on the state, summer camps or programs run by youth organizations may not be required to be licensed by the child care regulatory agency, although they may be required to meet other health and safety guidelines.

### Priorities and Considerations for Policymakers

The Office of Child Care (OCC) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services, has had a long-standing focus on ensuring the health and safety of children in all child care settings. The OCC administers the Child Care and Development Block Grant (CCDBG) and the legislation requires every state and territory to operate a system of licensing in order to receive funds. In recent years, the OCC has put a renewed focus on supporting states and territories in strengthening licensing standards; and developing strategies to help providers meet increased standards.<sup>9</sup> Additionally, in the last several years, a high priority has been placed on quality improvement efforts such as professional development systems, quality rating and improvement systems (QRIS), and other quality-building initiatives. These efforts at the federal level are intended to help states and territories implement policies to increase access to high quality child care, particularly for children in low-income families.

<sup>8</sup> For more information on 21st Century Community Learning Centers see: <http://www2.ed.gov/programs/21stccclc/index.html>.

<sup>9</sup> Office of Child Care, U.S. Department of Health and Human Services, Administration for Children and Families, "Pathways and Partnerships for Child Care Excellence". Retrieved on June 24, 2011 at: [http://www.acf.hhs.gov/programs/occ/ta/pubs/pathways/pathways\\_partnerships\\_v1.pdf](http://www.acf.hhs.gov/programs/occ/ta/pubs/pathways/pathways_partnerships_v1.pdf).

Balancing licensing regulations and decisions on licensing exemptions is a challenging process for policymakers. The National Association for Regulatory Administration, an organization focused on strong licensing practice for all human care regulations, believes that exemptions create inequities among providers in the child care system when some programs are required to meet regulations and others are not.<sup>10</sup> However, state and territory child care regulations vary enormously. Policymakers may take into account considerations related to maintaining important minimum standards, monitoring of legally exempt programs, impact on licensed programs and the community, and relationship to quality and subsidy programs in the decision-making process. In addition to these considerations, programs and/or standards may be exempted because of the variety of school-age programs available in communities and the need for supervised settings for children and youth.

States and territories often regard licensing as the foundation of quality improvement system efforts. QRIS and other program quality improvement initiatives build upon foundational licensing standards and add higher levels of quality standards. The recently released third edition of *Caring for Our Children: National Health and Safety Performance Standards* recommends that states develop quality rating and improvement systems to bolster efforts to improve health and safety in child care programs.<sup>11</sup> Some states and territories include license-exempt programs in their quality improvement initiatives, typically with access to training and primarily on a voluntary basis; or require specific trainings of license-exempt programs in order to participate in the subsidy system.

As the focus on quality increases, it is challenging for policymakers to consider how license-exempt programs are impacted by efforts to strengthen program quality and improve outcomes for children and youth, when they do not have oversight over these programs. Some of the questions faced by policymakers include:<sup>12</sup>

- What are the common types of exemptions in states and territories?
- What is the rationale for exempting, or not, certain programs or standards?

The information presented in this brief, and the accompanying tables, is intended to lay the groundwork for answering these questions. It is a first look and in-depth review of exemptions pertinent to school-age children and provides a backdrop for the increasingly complex decisions facing state and territory policymakers focused on improving access to quality school-age programs.

## **A CLOSER LOOK AT LICENSING EXEMPTIONS**

The Afterschool Investments Project (AIP) conducted research on state and territory school-age and center-based program licensing regulations to identify exemptions that apply to school-age children (see Methodology and Definitions on page 6). The exemptions identified and selected for this review represent school-age specific

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<sup>10</sup> National Association for Regulatory Administration. Joint position paper on license exempt early care and education programs. Retrieved on June 24, 2011 at: [http://www.naralicensing.drivhq.com/publications/archives/nara/Joint\\_Position\\_Statement.pdf](http://www.naralicensing.drivhq.com/publications/archives/nara/Joint_Position_Statement.pdf).

<sup>11</sup> American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. 2011. *Caring for our children: National health and safety performance standards; Guidelines for early care and education programs*. 3rd edition. Elk Grove Village, IL: American Academy of Pediatrics; Washington, DC: American Public Health Association. Available at <http://nrckids.org>.

<sup>12</sup> Afterschool Investments Project. "Promoting Quality in Afterschool Programs State Child Care Regulations", June 2006. Available at: <http://nccic.acf.hhs.gov/afterschool/childcareregs.pdf>.

exemptions only. This is important in understanding exemptions within the context of school-age licensing regulations, the dynamics and diversity of school-age programs, accessibility and availability, and connections to quality-building efforts.

The following categories, which are typically associated with school-age exemptions, were identified in state and territory regulations and included in the review:

- Camps;
- Recreation programs;
- Clubs;
- Instructional/educational activities;
- Special activities;
- Programs administered and located in schools;
- Programs that operate under other governmental entities; and
- Time-limited programs.

In addition to the exemption categories listed above, several additional types of exemptions were noted. These include: 1) regulations that explicitly define ages or identify school-age in the exemption language, and 2) exemptions based on the amount of time a child/youth is in attendance, such as drop-in or school-age part time programs.

Licensing regulations are generally grouped under the following categories:

- Physical environment;
- Child-staff ratios and group size;
- Staff qualifications and professional development;
- Health and hygiene;
- Program activities; and
- Supervision and care of children.

All of the above categories are affected by exemptions, either completely, in the case of programs that are totally exempt from licensing regulations, or partially if states/territories identify specific categories or sub-categories exempt from specific regulations. For example, some states/territories exempt all physical environment regulations for programs administered and located in schools, while others only exempt zoning, local health and fire department inspections. Some states/territories exempt some programs completely, relying on the oversight and regulations provided by other governmental entities or programs, such as military programs. However, regulations and oversight of programs by other entities varies dramatically. Some programs have strong regulations and monitoring processes in place while others do not.

### *What Is Not Included in the Review?*

The level of detail and variance found in state and territory exemptions language and definitions can make identifying school-age specific exemptions a challenge. Every attempt was made to consider the exemptions most relevant for policymakers seeking to ensure the safety of school-age children in high quality settings. In general, exemptions that do not specifically apply to school-age children or apply to “all children” were not included in this review.<sup>13</sup> These are:

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<sup>13</sup> The full data set is available from the Afterschool Investments Project upon request (E-mail afterschool@financeproject.org).

- Faith-based programs or religious exemptions typically do not define the ages of children and thereby can include children of all ages;
- Programs administered by the federal government or the military can apply to children of all ages; and
- Family Child Care Homes and Family, Friend, and Neighbor programs can serve children of all ages and most states/territories define thresholds of minimum numbers of children to determine whether a license is required or not.<sup>14</sup>

Please refer to Table 2: Methodology/Definitions chart below for a more detailed description of the data collection and process.

<b>Table 2: Methodology / Definitions</b>
<ul style="list-style-type: none"> <li>• The <b>primary source of information</b> in identifying exemptions was accessed through the National Resource Center for Health and Safety in Child Care and Early Education website on state/territory licensing regulations. See <a href="http://nrckids.org/STATES/states.htm">http://nrckids.org/STATES/states.htm</a>.</li> <li>• The exemptions that were identified for this brief represent those category types that apply to school-age children. However, state/territory <b>definitions of minimum and maximum ages for school-age children</b> range between 4 years old and 18 years old. In some states, the minimum age is 5 or 6 years old, while the maximum is up to 13, 14, or higher years old. For the purposes of this brief, the selected exemptions included the lowest age (4 years old) and the highest (18 years old).</li> <li>• <b>Camps</b> – includes summer camps, day camps, recreational camps, youth camps, instructional camps.</li> <li>• <b>Special activities</b> – includes specialized subject training, single skills building, skill development activities.</li> <li>• <b>Instructional or educational programs</b> – includes classroom based instructional programs</li> <li>• <b>Clubs</b> – includes Boys &amp; Girls Clubs.</li> <li>• <b>Recreation programs</b> – includes municipal recreational or park programs. In some states these exemptions include special activities, but are defined as recreation programs by the state.</li> <li>• <b>Varying terminology</b> is used by states/territories in describing categories, activities, types of programs. Best efforts were made in listing similar exemptions under the exempt categories that were used in this brief.</li> <li>• <b>School-age specific exemptions</b> were identified in all states/territories except for Wyoming and four Territories.</li> </ul>

## FINDINGS OF THE REVIEW

The information below provides an overview and illustrative examples of state or territory exemptions that are specific to school-age children. These are;

- Total number of exemptions across all states and territories;

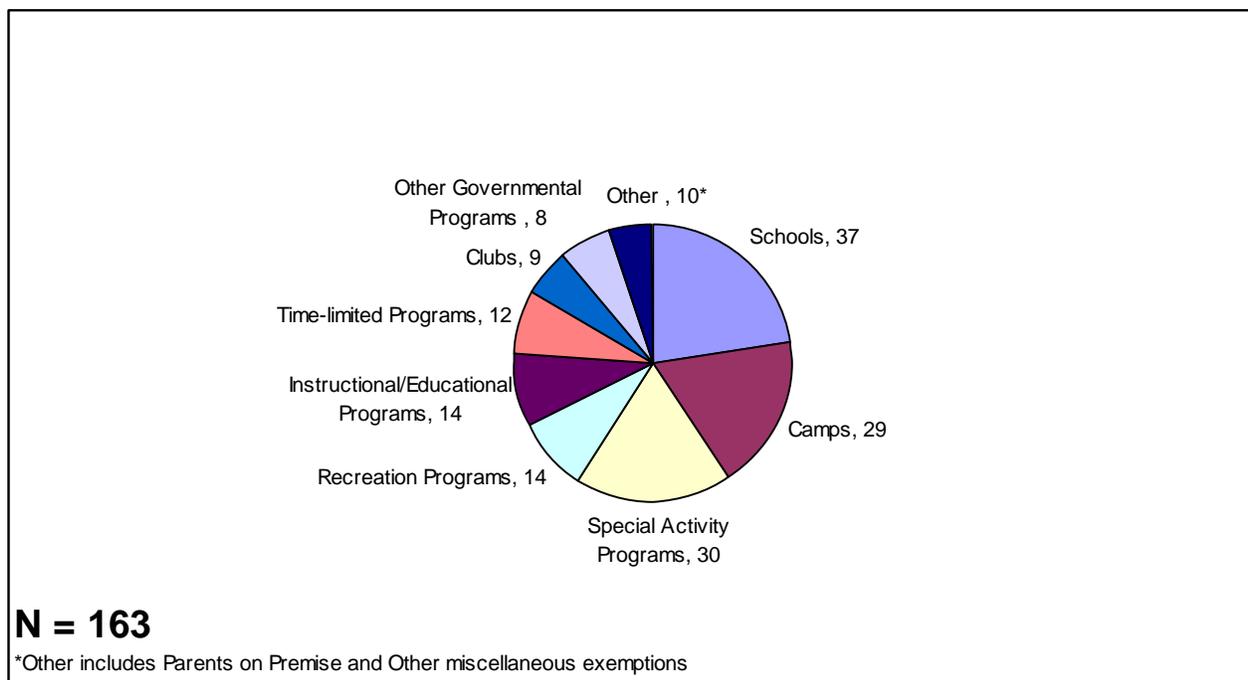
<sup>14</sup> For further information see: [http://www.naralicensing.drivehq.com/2008\\_Licensing\\_Study/1005\\_2008\\_Part\\_4\\_SmallFCC\\_Licensing\\_Regulations.pdf](http://www.naralicensing.drivehq.com/2008_Licensing_Study/1005_2008_Part_4_SmallFCC_Licensing_Regulations.pdf).

- Review of exemptions across state and territory licensing regulations by program type; and
- Review of exemptions within state and territory licensing regulation by categories.

**Total Number of Exemptions.** Fifty states and one territory define school-age specific exemptions in their licensing regulations. A total of 163 school-age exemptions across eight types (see Table 3) were identified in state and territory regulations. An additional 135 exemptions apply to children of all ages (this information is not included in the analyses described below). Exemptions that apply to children of all ages typically include occasional or time-limited care, on-site care (parents are on-site), religious programs, and care under the auspices of governmental entities such as military or federal programs. Altogether, these numbers represent a significant number of exemptions for states and territories to consider as they seek to link and align systems of licensing, professional development and quality rating and improvement.

**Table 3: Number of School-Age Exemptions by Program Type**

The following chart summarizes state and territory exemptions by the type of school-age exemption.



*Programs Operated in Schools*

The highest numbers of school-age specific exemptions are connected to schools – a total of thirty-seven. Most of the school exemptions exempt programs from meeting all licensing requirements, while some exempt specific licensing standards such as facility requirements. Twenty-eight school exemptions include public or private schools and seven states limit the exemption to public schools only. For example:

- In **California**, public and private schools that operate a program before and/or after school for school-age children are exempt, provided these conditions are met: (a) the program offered by a school must be operated by the school and run by qualified teachers employed by the school or the school district, (b) an outside organization or individual using a public or private school site to operate child care programs is subject to licensure, even if the program is open only to the children enrolled at that school.
- In **Georgia**, private schools which provide kindergarten through grade 12 education, meet the definition of a private school, are accredited by one or more of the entities listed in the regulations, and provide care before, after, or both before and after the customary school day to its students are exempt from licensing during the regular school year only.
- In **Maine**, child care facilities located in school buildings, as defined by and approved by the Department of Education, are exempt from rules related to: immunization records; code compliance; general safety; window screens; staffing, age of staff.
- In **New Hampshire**, school-age programs which operate in buildings in which public or private schools are currently located shall not be required to submit the following documentation: (1) A completed health officer inspections form documenting that, within the 12 months immediately preceding the date the department receives the application, the premises have been inspected and approved by a local health officer, for operation as a program; (2) A life safety compliance report documenting that, within the 12 months immediately preceding the date the application for licensure is received by the department, the premises have been inspected for compliance with the State Fire Code by the local fire department or the state fire marshal's office, and approved to operate as a program; (3) Documentation from the applicable town or city that the program has been granted zoning approval or that no zoning approval is required.
- In **Pennsylvania**, physical site requirements do not apply to school-age programs located in a school building, specifically, a program operated for school-age children in a public or private school building, a building used by an intermediate unit, or an area vocational-technical school building which meets the physical site requirements acceptable to the Department of Education.

### Camps

Twenty-nine states exempt **camps** from licensing regulations. This category of exemptions includes program types such as day, summer, recreational, youth and instructional camps. Some states include a limit on the duration of camps; others identify requirements, such as being accredited by a national camping association. For example:

- In **Alaska, Iowa, and Oklahoma**, camps are required to be accredited in order to meet the exemption definition.
- In **Delaware**, the Division of Public Health and in **Texas**, the Department of State Health Services must license camps in order to be exempted under child care licensing regulations.
- **Georgia** defines exemptions as day camping programs for children five years and older which have outdoor education and recreation as primary emphases

and operate between school terms for no more than seven hours per day or which are accredited by the American Camping Association or other national standard-setting agency or church camp accreditation programs which must provide standards equivalent to the American Camping Association standards.

- In **Kansas**, a summer instructional camp must be operated by a Kansas educational institution or a postsecondary educational institution, operate for not more than five weeks, provide instruction to children, all of whom are 10 years of age and older, and be accredited by an agency or organization acceptable to the secretary of health and environment.
- In **New Mexico**, the exemption is defined as: summer camps, wilderness camps, and programs operated for recreational purposes only by recognized organizations such as churches, schools, and the boy and girl scouts, provided such camps and programs are not conducted in private residences.
- **Tennessee** camp programs must meet the following criteria: 1) the primary purpose of the program or activity is to provide intensive recreational, religious, outdoor or other activities that are not routinely available in full-time child care; 2) the program or activity operates exclusively during the summer months and less than 90 days in any calendar year; and 3) the enrollment periods for participation in the program or activity clearly define the duration of the program or activity and exclude drop-in child care.
- In **Utah**, summer camps are exempt if they operate on federal land with a federal permit.

### Special Activity Programs

Thirty states exempt programs that fall under the category of **special activities**. This category includes specialized subject training, single skills building, and skill development activities. The common types of special activities include athletics, crafts, music, and dance. Some limit the amount of time in special activities to defined numbers of hours. For example:

- In **Alabama** special activities exempt programs are for children of lawful school-age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations. Local and state fire and health requirements must be met.
- **Arkansas** defines the exemption as school-age programs which operate with children arriving and leaving voluntarily for scheduled classes, activities, practices, games and meetings.
- In Colorado Neighborhood Youth Organizations are exempt. These are nonprofit organizations designed to serve youth from 6 to 18 years that operate primarily during times of the day when school is not in session and provide research-based, age-appropriate, and character-building activities designed for the development of youth. Youth have written parental or legal guardian consent to become a youth member of the Neighborhood Youth Organization and to arrive and depart from the primary location of the activity on their own accord.
- In **Connecticut** classes in music, dance, drama and art; classes that teach a single skill; and library programs are limited to no longer than two hours in

length. The definition also includes program exemptions for scouting; programs that offer exclusively sports activities; rehearsals; academic tutoring programs; or programs exclusively for children thirteen years of age or older.

- In **Delaware**, the exemption is limited to children over the age of six who attend at their own discretion on an “open door” basis. In addition, there is no compensation for the program and no agreement, written or implied, between the program and the parent(s)/guardian(s) for the program to assume responsibility for the care of the child.
- In **Hawaii**, multiservice organizations or community associations, incorporated under the laws of the State, that operate for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through seventeen years of age are exempt.
- In **Iowa**, special activity programs which meet less than four hours per day for the sole purpose of a special activity are exempt. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.
- **Kansas** exempts activity programs that serve exclusively school-age youth and youth who are 16 years of age and older.
- **Minnesota** includes programs such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12 month period.
- **New Jersey** includes specialized activities such as Boy Scouts, Girl Scouts, 4-H Clubs, Junior Achievement, and commercial indoor playground/ sports centers, single activity programs such as: athletics, gymnastics, hobbies, art, music, dance and craft instruction, which are supervised by an adult, agency or institution. Programs must a) provide activities that are supervised on a full-time basis by an adult; and b) provide only a single instruction or activity program.
- In **Texas**, skills programs are defined as programs that: (a) offer direct instruction in a single skill, talent, ability, expertise, or proficiency; (b) do not provide or offer services that are not directly related to a single skill, talent, ability, expertise, or proficiency, but may offer transportation and snacks; (c) do not advertise or represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services; (d) inform parents that the program is not licensed by the state; (e) inform parents of the physical risk a child may face while participating in the program; and (f) conduct background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.
- **Virginia** exempts programs of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

## Recreation Programs

Fourteen states exempt **recreation programs** in their licensing regulations. Five of the fourteen states allow drop-in care in their exemption language, and a number of states reference municipal recreational or parks programs in their criteria connected to this exemption. Four States require exempt programs to notify parents and the public that they are not licensed. For example:

- In **Massachusetts**, recreational programs include single purpose classes, workshops, clinics or programs sponsored by municipal recreation departments, or neighborhood playgrounds designed to serve primary play interests and needs of children, as well as affording limited recreation opportunities for all people of a residential neighborhood, whether supervised or unsupervised, located on municipal or non-municipal property, whether registration is required or participation is on a drop-in basis.
- In **New Hampshire**, recreational programs include any before and/or after school, vacation, or summer youth program for children 6 years of age or older offered by a school or religious group, the Boys and Girls Clubs of America, Girls, Incorporated, the YMCA, or the YWCA, provided that the program: 1) Does not operate in a private home; 2) Notifies parents or guardians that the program is not subject to licensure 3) Has policies and procedures to address the filing of grievances by parents and guardians; and 4) Is a member in good standing and in compliance with the national organization's minimum standards and procedures.
- In **Tennessee**, recreational programs must meet the following criteria: a) the sole or primary purpose of the program or activity is to provide recreational services e.g., organized sports or crafts activities; b) the sole or primary purpose of the program or activity is dedicated to recreational activities for a substantial portion of the hours of operation; c) the majority of program staff responsible for the direct delivery of services possesses specialized qualifications that are directly related to the recreational services being offered; d) at least 75% of any individual child's program time is spent engaging in the recreational activities that are reasonably age appropriate for the type of activity and the ages served; e) the supervision or care of children, or other types of child care-related services, is incidental to its overall purpose; and f) no individual child could participate in the program or activity: (i) For more than 7 hours per day; or (ii) If a child participates for more than 7 hours per day, that such child could not continue to participate for more than 7 consecutive weeks and for no more than 120 days per calendar year
- In **Texas**, Neighborhood Recreation Programs that meet the following conditions are exempt: (a) The program provides activities designed for recreational purposes for children ages 5-13; (b) The governing body of the program must adopt standards for care (staffing ratios, staff training, health and safety standards, and mechanisms for monitoring, enforcing the standards, and receiving and resolving complaints from parents); (c) The program does not accept any compensation other than a nominal annual membership fee. The program does not solicit donations as payment for services or goods provided as part of the program; (d) The program is organized as a non-profit organization or is located at the participant's residence; (e) The program must inform each

parent that Licensing does not regulate the operation; (f) The program does not advertise or represent that the program is a child-care school or after-school program or that the program offers child-care services; and (g) The program conducts background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.

### Instructional or Educational Programs

Fourteen states and one territory exempt **instructional/educational programs**. Some overlap exists between this category and special activities since states often include both of these categories in their regulations under one exemption. For example:

- In **Kentucky**, instructional and educational programs are exempt that: (a) operate for a maximum of twenty (20) hours per week; and (b) are limited to no more than 10 hours per week.
- In **Massachusetts**, classroom based instructional programs are exempt, provided that no specialized or high risk activities are conducted as part of the programs.
- In **Tennessee**, educational programs that meet the following criteria are exempt: a) the sole or primary purpose of the program is to prepare children for advancement to the next educational level through a prescribed course of study or curriculum that is not typically available in a department-regulated child care setting; to provide specialized tutoring services to assist children with the passage of mandatory educational proficiency examinations; or to provide education-only services to special needs children; and b) the program time scheduled to be dedicated to the educational activity is reasonably age appropriate for the type of activity and the ages served.

### Other Types of Programs

Thirty-nine states exempt **governmental programs, clubs, time-limited programs, and other miscellaneous** exemptions. Many states and territories exempt governmental programs, such as such as federal and military sponsored programs, but typically these exemptions include children of all ages and are not school-age specific. Because they apply to children of all ages they are not included in the school-age specific exemptions listed in this brief. For example:

- In **California**, any public recreation program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county and only during hours other than normal school hours for grades K-12, (a) for under 16 hours per week; and (b) for a total of 12 weeks or less during a 12 month period is exempt.
- In Connecticut, drop-in programs administered by a nationally chartered boys' and girls club are exempt.
- In **Hawaii** child care programs for children five years of age and older are exempt if conducted by counties provided that each county adopts rules for its programs.

- In **Iowa**, programs administered by a political subdivision of the state are exempt if their primary purposes are recreational or social and if children are five years of age or older and attending school.
- In **Michigan**, a program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- In **Michigan**, facilities or programs for school-age children that are currently operating and have been in operation and licensed or approved for a minimum of 2 years may apply to the department to be exempt from inspections and on-site visits if the program meets all of the following criteria: 1) The facility or program has been in operation and licensed or approved under this act for a minimum of 2 years immediately preceding the application date, 2) During the 2 years immediately preceding the application date, the facility or program has not had a substantial violation of this act, rules promulgated under this act, or the terms of a licensure or an approval under this act, 3) The school board, board of directors, or governing body adopts a resolution supporting the application for exemption from inspections and on-site visits required under section 5 as provided for in this subsection.
- In **Mississippi**, programs are exempt that are primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- **Tennessee** exempts Boys and Girls Clubs as follows: a) any program or facility operated by, or in affiliation with, any Boys and Girls Club that provides care for school-age children and that holds membership in good standing with Boys and Girls Clubs of America and that is certified as being in compliance with the purposes, procedures, voluntary standards and mandatory requirements of Boys and Girls Clubs of America b) any Boys and Girls Club that applies to participate in state or federally funded programs that require child care licensing by the state as a term of eligibility may elect to apply to the department for child care licensing and regulation. Upon meeting departmental standards, the Boys and Girls Club may be licensed as a child care center/provider; c) the department is authorized to grant a waiver from any rule concerning grouping of children and adult/child ratios for child care centers to any Boys and Girls Club that falls meets certain provisions, and that is providing after-school child care to mixed groups of school-age children.
- **Virginia** exempts recreational activities programs offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

- In **Wisconsin** a time-limited exemption includes seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible schools and holiday child care programs.

### Exemptions within Categories of Licensing Regulations

Across the range of school-age specific exemptions, requirements under all six categories of licensing regulations (physical environment, child-staff ratios and group size, staff qualifications and professional development, health and hygiene, program activities, and supervision and care of children) are waived—either completely or partially. Some states completely waive all licensing requirements for camps, recreation programs, clubs, instructional/educational programs, special activities, schools, and other governmental entities. Other states exempt these programs with certain stipulations and conditions, such as requiring national accreditation, limiting the time children/youth can participate in specific program activities, or waiving zoning and fire inspections.

In almost all states and territories, *ratios and group size* standards for school-age children are built into licensing regulations, by children’s ages. Additionally:

- In **Nebraska**, no *group size* requirements are required to promote flexibility for school-age only programs.
- In **Vermont**, fourth, fifth, and sixth graders can participate in activities without the physical presence of staff when certain conditions are met.

States also may acknowledge the unique characteristics of school-age programs by waiving certain licensing regulations that may be difficult for school-age programs to meet or that provide programs with flexibility in meeting requirements. To a lesser degree, other licensing components such as program activities, the physical environment, staff qualifications and professional development, health and hygiene, and supervision and care of children contain specific standards for school-age programs. Most states and territories require minimum qualifications and on-going professional development for all licensed programs. Very few states have identified qualifications relevant to school-age specific education, training, and experience. This is partially due to the scarcity of educational programs that promote specialized training and preparation for entry into the school-age workforce.<sup>15</sup>

- In **Kansas**, *staff qualification* standards other than those prescribed in licensing are accepted if program staff are affiliated with a national organization or government entity with standards governing school-age programs, and have participated in professional development training according to those standards, and if standards are substantially equivalent to state regulations.

## LOOKING FORWARD

The purpose of this review of exemptions pertinent to school-age children is to provide information for policymakers seeking to ensure that all children have access to high quality school-age care and education programs. The child care regulatory system is complex, and each state and territory weighs many factors in making decisions about how best to

<sup>15</sup> For further information see: [http://www.naralicensing.drivethq.com/2008\\_Licensing\\_Study/1005\\_2008\\_Part\\_3\\_Center\\_Licensing\\_Regulations.pdf](http://www.naralicensing.drivethq.com/2008_Licensing_Study/1005_2008_Part_3_Center_Licensing_Regulations.pdf).

ensure the safety of children when they are not in parents care, including issues related to the oversight of specific programs by other state agencies or entities.

As policymakers seek to build stronger and more aligned quality improvement systems—the interconnections (or lack thereof) among licensing, professional development and quality rating systems become critical. These systems and subsystems often operate independently or on parallel levels, and to date, a clear understanding of how licensing exemptions, particularly for school-age children, influences access to quality settings has been lacking. Licensing regulations that are well thought out and connected to quality-building initiatives and subsidy programs, based on research and best practices, and yet are flexible enough to apply to multiple settings provide a strong framework for making decisions about exemptions.

### Considerations and Next Steps

Policymakers, parents, funders, and other stakeholders are coming together in various ways to improve the well-being of children and youth, including addressing issues of safety and quality of out-of-school time settings.<sup>16</sup> As stakeholders with different perspectives engage in discussions on the role of licensing a number of questions emerge:

- What is the impact of licensing exemptions on licensing standards and the licensed provider community?
- What licensing standards are essential and should not be exempted?
- Do exemptions increase accessibility to quality afterschool programs?
- What is the rationale for exempting, or not, certain programs or standards within the child care regulatory approach to monitoring and accountability?
- Are children attending license-exempt programs receiving safe and adequate care?

In order to address these questions, and others, states and territories can begin by considering the following:

1. Are standards in the licensing regulations specific to school-age?
2. Are standards based on best practices and research specific to the developmental needs of school-age children; particularly for categories of licensing standards, including health and hygiene, physical environment, program activity and supervision and care of children? Because of the wide range of ages, typically from 5 years old to 13 and beyond, what may be important for children 5 to 10 years old in terms of licensing standards, is less critical for children over 10 years old.
3. In what ways are licensing standards linked or embedded in other quality-building initiatives, including afterschool program quality standards<sup>17</sup> and quality rating and improvement system standards for school-age programs?<sup>18</sup>

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16 Forum for Youth Investment. "Ready by 21 State Policy Survey: Child and Youth Policy Coordinating Bodies in the U.S." Retrieved on June 24, 2010 at: <http://sparkaction.org/sites/sparkaction.org/files/Executive%20Summary.pdf>

17 See for example; The NAA Standards for Quality School-Age Care, at <http://www.naaweb.org/default.asp?contentID=612>.

18 For information on the states with afterschool program standards and school-age standards in QRIS see: [http://nccic.acf.hhs.gov/afterschool/program\\_trends.html](http://nccic.acf.hhs.gov/afterschool/program_trends.html) and [http://nccic.acf.hhs.gov/afterschool/qris\\_trends.html](http://nccic.acf.hhs.gov/afterschool/qris_trends.html).

4. Do licensing standards create a seamless continuum to the professional development career ladder by establishing minimum standards specific to the school-age workforce?
5. How does information on the school-age workforce inform policymakers on the supply and need for school-age programs?
6. Are regulations flexible enough to apply to the wide range of school-age programs? Do they address barriers that some programs face in meeting regulations? Are the perspectives of multiple sponsors and purposes of school-age programs in policy discussions?

Recognizing the important role of licensing in ensuring the safety of children in child care, a number of states and territories are examining and revising licensing standards. As they do, it will be a good time to develop an intentional and thoughtful strategy to consider how licensing exemptions impact school-age programs, as well as family child care programs and other exempt entities. Further, there is increasing focus at the national level to developing a licensing system that is accountable, but less complicated and sets a bar for quality that gives programs a clear pathway toward quality.<sup>19</sup>

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<sup>19</sup> Fiene, R. "National Child Care Benchmarks- Research to Policy". The Pennsylvania State University, January 2011, retrieved on July 5, 2011 at [http://ecti.hbg.psu.edu/docs/publication/National\\_Child\\_Care\\_Standards6bsm%20poster1.doc](http://ecti.hbg.psu.edu/docs/publication/National_Child_Care_Standards6bsm%20poster1.doc)

## CONTINUING THE DIALOGUE ON EXEMPTIONS IMPACTING SCHOOL-AGE PROGRAMS

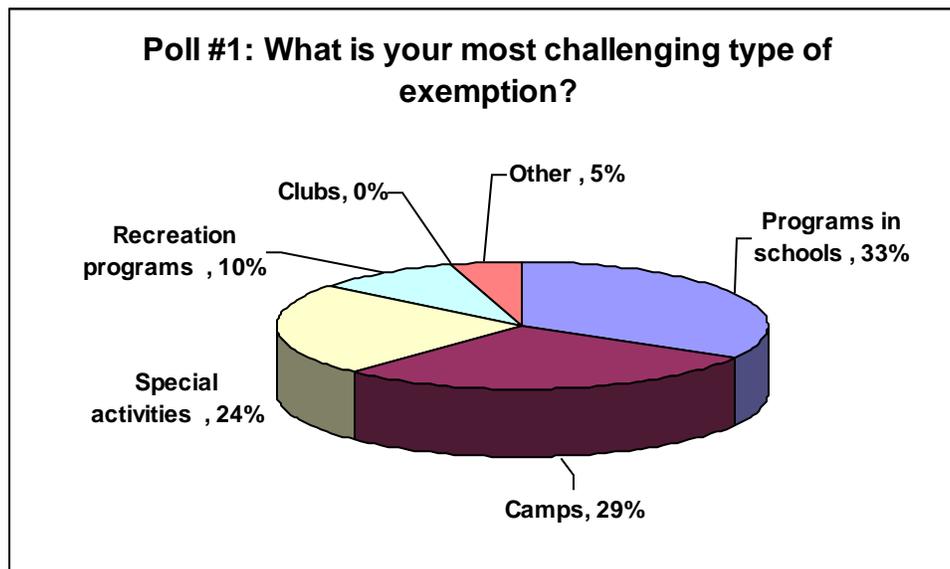
The Afterschool Investments Project held a webinar entitled, *Spotlight on School-Age Licensing Exemptions*, on August 10, 2011. A total of 40 people from 23 States participated in the webinar. Participants represented a variety of organizations, including State departments of early learning, child development, and/or human services, statewide afterschool networks, universities, national organizations, and ACF staff.

The **top three learning goals** identified by participants during registration were:

1. To understand the scope of school-age exemptions across the country;
2. To learn how other states infuse quality into licensing standards; and
3. To increase their knowledge of issues and trends in school-age programs.

In order to gather further information from participants during the webinar, two polls were conducted related to school-age licensing exemptions. The results of the polls are shown below:

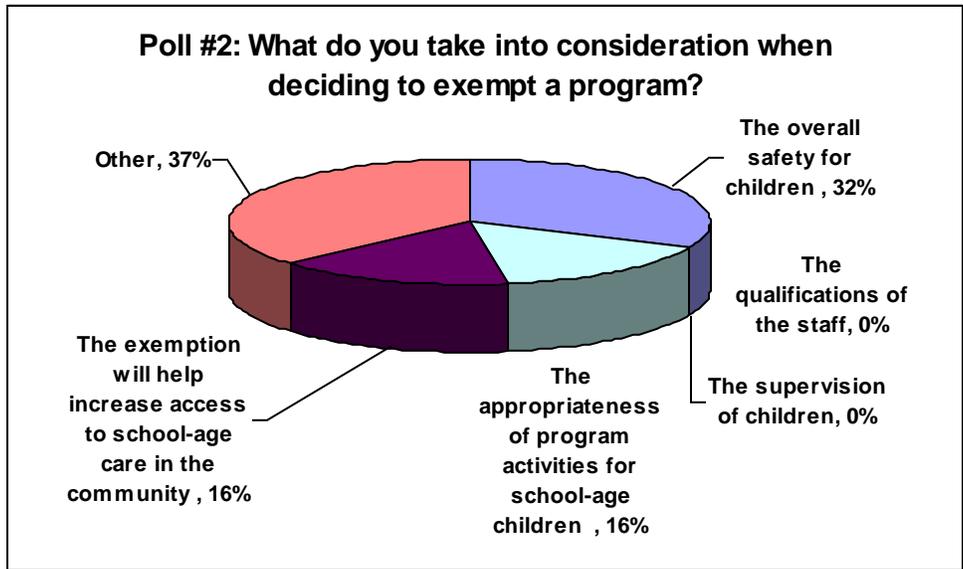
### Poll #1: What is your most challenging type of exemption?



#### Additional comments for Poll #1:

- Faith-based are challenging.
- In our state, there was a law that programs that were in operation by a certain year became exempt and that is where "other" Boys and Girls Clubs use this law to claim exemption?
- In Ohio, B&G clubs are exempted.
- Other - if they meet the requirements of the act, they are exempt. We don't consider anything else beyond what the act says (single focus activity, religious instruction, etc.).
- Texas and Arkansas answered other because exemptions are legislatively mandated.

**Poll #2: What do you take into consideration when deciding to exempt a program?**



During the webinar, AIP staff presented key findings of the study, as describe above. Additionally, Amanda Guarino, AIP Federal Project Officer discussed the priorities of the Office of Child Care around ensuing health and safety for school-age children in child care and Randy Neve, from the Wisconsin Afterschool Network, offered commentary on the policy implications of licensing exemptions for school-age care. For further information and to access a recording of the webinar and other resources, see <http://nccic.acf.hhs.gov/afterschool/webinars.html#3>.

## RELATED RESOURCES FROM THE AFTERSCHOOL INVESTMENTS PROJECT

### ***Licensing Regulations***

*An Analysis of Summer and Day Camp Regulations, 2010*

[http://nccic.acf.hhs.gov/afterschool/summer\\_day\\_camp.html](http://nccic.acf.hhs.gov/afterschool/summer_day_camp.html)

*Promoting Quality in Afterschool Programs through State Child Care Regulations, 2006*

<http://nccic.acf.hhs.gov/afterschool/childcarereqs.pdf>

For more licensing resources see: <http://nccic.acf.hhs.gov/afterschool/licensing.html>

### ***Quality Improvement***

*A Tool to Assess the Alignment of Professional Development and Quality Rating and Improvement Systems, 2010*

[http://nccic.acf.hhs.gov/afterschool/qris\\_assessment\\_tool.pdf](http://nccic.acf.hhs.gov/afterschool/qris_assessment_tool.pdf)

For more quality improvement resources see:

[http://nccic.acf.hhs.gov/afterschool/quality\\_improvement.html](http://nccic.acf.hhs.gov/afterschool/quality_improvement.html)

### ***Professional Development***

*Characteristics of the Afterschool Workforce, 2010*

<http://nccic.acf.hhs.gov/afterschool/afterschool-workforce.html>

For more professional development resources see:

[http://nccic.acf.hhs.gov/afterschool/prof\\_dev.html](http://nccic.acf.hhs.gov/afterschool/prof_dev.html)