

Childcare Regulations

The Division of Child Care and Early Childhood Education (DCCECE) is given the authority to make and publish rules “setting minimum standards governing the granting, revocation, refusal, and suspension of licenses for a childcare facility and the operation of a childcare facility.” Ark. Code § 20-78-206.

An Unconventional Learning Environment (ULE) could be subject to being classified as providing state-regulated childcare if it meets the definition of a childcare facility which would subject the ULE to childcare licensing requirements unless a valid exception or exemption applies.



1. Childcare Licensing

The Arkansas Legislature has defined a “Childcare facility” as “any facility which provides care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit and whether or not the facility makes a charge for the services offered by it.” Ark. Code § 20-78-202.

A “related minor child” is defined as “a minor child related by blood, marriage, or adoption to the owner or operator of the facility or a minor child who is a ward of the owner or operator of the facility pursuant to a guardianship order issued by an Arkansas court of competent jurisdiction.” Ark. Code § 20-78-202(2)(ii).

Unless an ULE may claim an exception, childcare licensing is required if the ULE meets the definition of a childcare facility.

2. Exceptions from Childcare Licensing

The state’s broad definition of a childcare facility at Ark. Code § 20-78-202 specifically includes “a nursery, a nursery school, a kindergarten, a daycare center, or a family daycare home,” but it does not include the following:

1. Special schools or classes operated solely for religious instruction;
2. Facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of the children are attending church services, shopping, or engaging in other activities during the periods;
3. Any educational facility, whether private or public, which operates solely for educational purposes in grades one (1) or above and does not provide any custodial care;
4. Kindergartens operated as a part of the public schools of this state;
5. Any situation, arrangement, or agreement by which one (1) or more persons care for fewer than six (6) children from more than one (1) family at the same time;
6. Any educational facility, whether public or private, which operates a kindergarten program in conjunction with grades one (1) and above and provides short-term custodial care before or following classes for those students [NOTE: A public or private school which operates a Kindergarten (K5) in conjunction with grades one and above, or for grades one and above only and provides short-term custodial care (not to exceed 20 hours weekly) prior to and/or following classes for those students, is not required to comply with licensing requirements for the short-term custodial care provided. Ark. Admin. Rules 016-22-021.];
7. Any recreational facility or program, whether public or private, which operates solely as a place of recreation for minor children. A “recreational facility or program” is defined as a facility or program which operates with children arriving and leaving voluntarily for scheduled classes, activities, practice, games, and meetings;

ULEs that meet the broad definition of a childcare facility and do not fall into one of the listed exceptions must obtain a license to lawfully operate.

3. Exemption for Religious Entities

In addition to the exceptions to the definition of a childcare facility listed in paragraph 2, “any church or group of churches exempt from the state income tax levied by the Income Tax Act of 1929, § 26-51-101 et seq., when operating a childcare facility shall be exempt from obtaining a license to operate the childcare facility upon the receipt by the Division of Child Care and Early Childhood Education of written request therefor. A written request shall be made by those churches desiring exemption to the division, which is mandated under the authority of this subchapter to license all childcare facilities.”

Ark. Code § 20-78-209.

To maintain this exemption, however, the childcare facility must maintain verification that it “has met the required fire, safety, and health inspections on an annual basis and is in substantial compliance with published standards that similar nonexempt childcare facilities are required to meet”, and the DCCECE may visit the facility to “verify and maintain substantial compliance with all published standards for nonexempt childcare facilities.” Though, substantial compliance “shall not include those of a religious or curriculum nature so long as the health, safety, and welfare of the child is not endangered.”

Ark. Code § 20-78-209(b).

4. Requirements for Childcare Providers

If an ULE is subject to licensure, the DCCECE provides helpful information on the minimum requirements for licensure based on the kind of child care facility. Each type of facility is listed below with a link to the DCCECE information:

- Registered Child Care Family Homes – Homes that care for fewer than 5 children.
- Licensed Homes – Homes that care for 6 to 16 children. Health and fire department approvals are required if care is provided to 11 or more children. City zoning approval is required where applicable.
- Licensed Child Care Centers – Facilities that care for 6 or more children from more than 1 family. Programs that operate less than 10 hours a week are exempt. These facilities require health and fire department approval and are subject to city zoning.
- Out of School Time – These facilities are center based child care programs that care for school age children only.

The DCCECE is tasked with enforcing child care licensing requirements and may dole out civil penalties for violations up to \$100 per violation and \$500 per month. Ark. Code § 20-78-203.

Please note that the yes. every kid. foundation. Edupreneur Support Program does not offer legal advice. Our focus is to provide encouragement, insight, and information on navigating regulations and statutes impacting your work.