**Section 377.3 Day Programs Exempt From Licensure**

a) Whether called "schools", "child care centers", "nursery schools", "kindergartens", "day nurseries", or similar names, the following day programs are exempt from licensure as day care centers to the extent that their services are provided exclusively to children who have attained the age of 3 years:

1) *Programs operated by public or private elementary school systems; secondary school units; or institutions of higher learning.* This exemption includes programs operated by institutions of higher learning as laboratories for the training of their adult students as part of their regular academic curriculum, whether the program is on the campus of the institution of higher learning or at other facilities controlled by the institution.

2) *Programs or that portion of programs recognized by the Illinois State Board of Education.*

3) *Programs operated by a school registered with the Illinois State Board of Education and recognized or accredited by a national or multi-state educational organization or association which regularly recognizes or accredits schools such as Association Montessori Internationale or the American Montessori Society.*

4) *Programs serving handicapped children less than 21 years of age which are registered with and approved by the Illinois State Board of Education and which meet the standards of the Illinois State Fire Marshal.* [225 ILCS 10/2.09]

5) Programs providing primarily religious education as part of the instructional program of an elementary school operated by a church or religious organization which also meet the following criteria:

A) Receive no governmental aid or assistance other than exemption from taxation as a non-profit organization;

B) Comply with the fire safety standards of the Illinois State Fire Marshal (41 Ill. Adm. Code 100); or comply with local fire prevention and safety standards for schools which are equal to or higher than rules adopted by the Illinois State Fire Marshal; or comply with Illinois State Board of Education Rule 200, Efficient and Adequate Standards for the Construction of Schools (23 Ill. Adm. Code 175);

C) Comply with the standards of the Illinois Department of Public Health (77 Ill. Adm. Code 750) or the local health department; and

D) Either offers classes for the first through the sixth grade or offers classes from the levels of nursery school or kindergarten through at least the first grade with a plan to offer classes through the sixth grade within five years.

b) The Child Care Act of 1969 also exempts the following from licensure as day care centers:

1) *Facilities operated in connection with a shopping center or service, religious services, or other similar facilities, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available;*

2) *Any type of day care center that is conducted on federal government premises; and*

3) *Special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.* [225 ILCS 10/2.09]

c) Per the Child Care Act [225 ILCS 10/2.09(a)(ii)], partially exempt child care programs, as defined in Section 377.2 of this Part, are exempt from meeting the facility requirements of 89 Ill. Adm. Code 407 (Licensing Standards for Day Care Centers). The operating programs and staff are not exempt from licensing standards and shall be in compliance with Part 407 (Licensing Standards for Day Care Centers).

d) Family homes that care for no more than 3 children under the age of 12 or that receive only children from a single household, for less than 24 hours per day, are exempt from licensure as day care homes. The three children to whom this exemption applies includes the family's natural or adopted children and any other persons under the age of 12 whether related or unrelated to the operator of the day care home.

(Source: Amended at 28 Ill. Reg. 3001, effective February 15, 2004)