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Exemption of Educational Institutions from Licensing Requirements by the Department of Children and Youth Services

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**Exemption of Educational Institutions from Licensing
Requirements by the Department of Children and
Youth Services**

Sec. 10-8a-1. Authority

(a) These regulations are authorized by Section 10-8a of the Connecticut General Statutes.

(b) Any residential facility which has current State Board of Education approval shall be deemed to be an educational institution exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes, provided that these regulations shall not exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes any facility which maintains a special education program and has or is seeking State Board of Education approval for such program pursuant to Section 10-76d.

(Effective September 1, 1982)

Sec. 10-8a-2. Definitions

(a) "Applicant" means a person, board, association, partnership, corporation or other entity seeking to operate a facility exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes.

(b) "Board" means the State Board of Education;

(c) "Commissioner" means the Commissioner of Education;

(d) "Conditional Exemption" means the formal action of the State Board of Education relieving a facility from meeting the requirements of Sections 17-48 and 17-51 of the General Statutes for a period of time not to exceed six months;

(e) "Days" means calendar days;

(f) "Denial" means the formal action of the State Board of Education denying to a facility an exemption from the requirements of Sections 17-48 and 17-51 of the General Statutes pursuant to Section 10-8a of the General Statutes;

(g) "Exemption" means the formal action of the State Board of Education relieving a facility from meeting the requirements of Sections 17-48 and 17-51 of the General Statutes pursuant to Section 10-8a of the General Statutes for a stated period of time;

(h) "Institution Exempt From Sections 17-48 and 17-51" means a residential educational facility which provides instructional services to primary and/or secondary school-aged children and which

(1) has current State Board of Education approval, or

(2) has obtained a Certificate of Exemption or a Certificate of Conditional Exemption having met the qualifications contained in the regulations which follow, or

(3) is accredited or approved by an association designated by the State Board of Education as a recognized approval agency, provided that no facility which maintains a special education program and has or is seeking State Board of Education approval for such program shall be exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes. A residential facility which provides residential services to primary and/or secondary school-aged children which does not seek and receive State Board of Education approval or has not obtained a Certificate of Exemption or a Certificate of Conditional Exemption shall not be exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes.

(i) "Recognized Approval Agency" means an association or organization which has current State Board of Education approval and grants accreditation or approval to educational facilities.

(Effective September 1, 1982)

Sec. 10-8a-3. Application for non-exempt facilities

(a) No residential facility shall begin or continue operation as an institution exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes until a Certificate of Exemption or a Certificate of Conditional Exemption is obtained from the State Board of Education. Application for a Certificate of Exemption by a facility in operation on or prior to the effective date of these regulations shall be made not more than sixty days following the effective date of these regulations. Application for a Certificate of Exemption by a facility not in operation on or prior to the effective date of these regulations shall be made not less than one hundred and fifty days prior to the date on which the facility is to commence operation. Application shall be made on such forms as the Commissioner shall prescribe.

(b) Application for a Certificate of Exemption is to include but not be limited to the following information:

- (1) the name and mailing address of the facility;
- (2) a list of addresses for each building or site on which the facility is or shall be located;
- (3) a description of the facility's administration including:
 - (A) the names and addresses of all members of the Board of Directors or other governing body;
 - (B) a table or organization of the facility's internal operation;
 - (C) a list of each administrator by name, role, educational background and training;
 - (4) a description of the facility's financial management including:
 - (A) the names and addresses of all owners and officers of the facility and of the property on which any part of the facility is located;
 - (B) a copy of the applicant's current certificate of incorporation;
 - (C) a description of the facility's budgetary and accounting process;
 - (D) a list of the amount and types of federal and/or state aid received or anticipated;
 - (E) a description of all insurance plans in effect or planned for the facility;
 - (F) a copy of an audit from the preceding year conducted by a certified public accountant for each facility in operation for at least one year;
 - (5) copies of all current certificates of local and/or state health, safety, sanitation, fire, zoning and building code approvals;
 - (6) a description of dormitory facilities including:
 - (A) the number of students per room and the age range of students per room;
 - (B) the program of supervision and security;
 - (7) a copy of contingency plans for the emergency placement of students including but not limited to the return of students to their families upon the summary suspension of a Certificate of Exemption or a Certificate of Conditional Exemption;
 - (8) a statement describing any pending legal action which in any way is related to the facility or its property;
 - (9) the following disclosure information shall be provided when applicable:
 - (A) if any member of a facility's Board of Directors or other governing body is an employee of a town or regional board of education or a state agency which places handicapped children, list the name of each such individual, his/her role on the Board of Directors, and his/her affiliation in any of the above-named agencies;
 - (B) if an employee of a town or regional board of education or a state agency which places handicapped children has a financial interest or any other interest in the ownership or management of the facility, list the name of each such individual,

his/her school district, his/her role in the ownership or management of the facility, and his/her affiliation in any of the above-named agencies;

(C) if a facility has enrolled any student(s) from the local, regional or state agency in which the individual(s) named above is employed, state the number of such students enrolled and the name of the district which placed each student;

(10) a description of all instructional services, support or related services, and extra-curricular activities;

(11) a list of names, titles, educational background and training of persons assigned or expected to be assigned to the educational program;

(12) a description of the student body including:

(A) the number of students enrolled in the educational program and the number of students enrolled in the residential program or the anticipated numbers of such students;

(B) the student age range for admission.

(C) The Commissioner shall review all applications and may require of the applicant additional information as necessary.

(d) Notice of any substantial change with regard to any information submitted in the application for a Certificate of Exemption shall be forwarded promptly to the Commissioner.

(Effective September 1, 1982)

Sec. 10-8a-4. Exemption procedures

(a) Upon receipt of a completed application, the Commissioner shall cause to be conducted an evaluation of the applicant. Within fifteen days following receipt of a completed application, the Commissioner shall appoint an on-site evaluation team and shall notify the applicant in writing of the initiation of the evaluation.

(b) The on-site evaluation shall be conducted by at least one employee of the State Board of Education and at least one other member who is knowledgeable and experienced in the operation of an independent educational institution. The Commissioner may appoint additional on-site evaluators as deemed necessary but in no case shall the on-site evaluation team exceed four persons. The employee of the State Board of Education shall serve as chairperson of the on-site evaluation team. The Commissioner shall provide each evaluator with a copy of the submitted application.

(c) The applicant may challenge any member of the on-site evaluation team for good cause shown. The challenge shall be in writing setting forth the reasons therefor and shall be filed with the Commissioner within seven days following receipt of notice of the appointment of the on-site evaluation team. The Commissioner shall render a decision within seven days of receipt of the challenge.

(d) A statement of evaluation procedures shall be sent to the applicant accompanying the notification of appointment of the on-site evaluation team.

(e) The report of the on-site evaluation team shall be prepared by the chairperson in consultation with each member of the on-site evaluation team. The report shall include the findings of the on-site evaluation team, including commendations and recommendation(s) for improvement, if any, and a recommendation for exemption, conditional exemption or denial. The report shall be submitted to the Commissioner within one hundred and twenty days of the receipt of the completed application.

(f) The Commissioner shall review the report of the on-site evaluation team and may consult any state agency for assistance. The Commissioner shall submit, in writing, to the State Board of Education, his/her recommendation concerning exemp-

tion, conditional exemption, or denial. Following action by the State Board of Education, the applicant shall be informed in writing of the exemption, conditional exemption, or denial of exemption within ten days of the action.

(g) The Commissioner shall be permitted to observe an exempted educational institution at any time upon reasonable notice.

(Effective September 1, 1982)

Sec. 10-8a-5. Exemption criteria

The on-site evaluation team shall review and report to the Commissioner, pursuant to Section 10-8a-4 of these regulations, on the following minimum requirements:

(a) A facility shall have administrative personnel in numbers and training and such policies and operating procedures which shall be in writing and kept current, as are necessary to ensure the health and safety of the students residing at the facility.

(b) A facility shall maintain and update annually the following information for each student: name, address, name of parent(s) or guardian, attendance, courses of study, grades achieved, participation in extra-curricular activities, and medical records.

(c) As prerequisites for exemption or conditional exemption, a facility shall have current health and sanitation approval by the local department of health, current approval for safety by the local and/or state fire marshals, and upon request a certificate of occupancy and/or zoning approval.

(d) Each student shall be provided with sleeping quarters which are adequate in area, space, and equipment in relation to each student's age and needs. Suitable provisions shall be made for the separation of the sexes. The program of supervision and the security procedures in effect shall ensure the health and safety of the students.

(e) All food preparation and serving areas shall comply with Administrative Regulations Section 19-13-B42 of the Public Health Code pursuant to Section 19-13 of the General Statutes.

(f) Each facility shall have procedures to ensure that each student be protected by adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, measles and rubella before being permitted to attend such facility pursuant to Section 10-204a of the General Statutes. The facility shall provide or arrange for qualified medical care for its students on a twenty-four-hour-a-day, seven-day-a-week basis and have a written plan which specifies the arrangements for the provision of emergency medical care. The facility shall provide a separate area for students in the event of sickness. The facility shall have written procedures to ensure that prescription medication be administered to a student by qualified personnel only upon the written order of a licensed physician. All drugs, medicines, and medical instruments shall be kept in a locked cabinet accessible only to designated staff members. All health facilities shall meet all local and state regulations for such facilities.

(g) The educational program of each facility shall provide students with instructional services consistent with the requirements of Section 10-184 of the General Statutes. The instructional services shall be supplemented with materials, equipment and facilities in suitable quantity to implement the educational program. The professional administration, teaching and support services staffs shall have the necessary training and skills and shall be in numerical proportion to implement safely and adequately the educational program.

(h) The applicant shall provide sufficient evidence of fiscal soundness to operate for the period of approval.

(Effective September 1, 1982)

Sec. 10-8a-6. State board of education action

(a) When a facility meets the exemption criteria, the State Board of Education shall issue a Certificate of Exemption stating the duration of that exemption. Such status shall permit a facility to be exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes for the stated period of time. Upon receipt of a Certificate of Exemption, the facility shall display clearly the certificate in location visible to students and the public. The certificate shall be non-transferable.

(b) When a facility has failed to meet the exemption criteria but such failure is not due to a serious deficiency, the State Board of Education may issue a Certificate of Conditional Exemption. Such status permits a facility to be exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes for a specified period of time within which the noted deficiency or deficiencies shall be corrected. Within thirty days of the issuance of a Certificate of Conditional Exemption, a corrective plan shall be developed by the facility and submitted to the Commissioner. If approved by the Commissioner a timetable shall be established for implementing the corrective plan, a date set on which an on-site evaluation shall occur, and a date set by which time the application for a Certificate of Exemption shall be considered. In no case shall a Certificate of Conditional Exemption extend beyond six months.

(c) When a facility has failed to meet the exemption criteria and such failure is due to a serious deficiency or deficiencies, the State Board of Education shall deny the application for a Certificate of Exemption. Upon denial said facility shall not be exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes.

(d) In the event of denial or conditional exemption, written notice shall be forwarded to the facility within ten days and shall include the reasons therefor. Said facility may request in writing a hearing by the State Board of Education pursuant to Chapter 54 of the General Statutes.

(Effective September 1, 1982)

Sec. 10-8a-7. Renewal of exemption

(a) In order to maintain exemption from the requirements of Sections 17-48 and 17-51 of the General Statutes, an educational institution which has been exempt for less than three consecutive years shall make application annually for renewal of exemption to the State Board of Education, in such manner as it shall prescribe, at least ninety days prior to the date of termination of the most recent Certificate of Exemption. The procedures and evaluation criteria applicable to initial exemption shall be applicable to renewal of exemption except that the requirement of an on-site evaluation is optional at the discretion of the Commissioner but shall occur not less than once every five years.

(b) In order to maintain exemption from the requirements of Sections 17-48 and 17-51 of the General Statutes, an educational institution which has been exempt for at least three consecutive years shall make application for renewal of exemption for an additional period of up to five years to the State Board of Education, in such manner as it shall prescribe, at least ninety days prior to the date of termination of the most recent Certificate of Exemption. The procedures and evaluation criteria applicable to initial exemption shall be applicable to renewal of exemption except that the requirement of an on-site evaluation is optional at the discretion of the Commissioner but shall occur not less than once every five years.

(Effective September 1, 1982)

Sec. 10-8a-8. Revocation and emergency action

(a) The Commissioner may serve written notice upon an institution exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes indicating that

revocation of a Certificate of Exemption or a Certificate of Conditional Exemption is under consideration if the institution:

(1) is alleged to have failed to comply with applicable local and state laws, ordinances, rules and regulations relating to health, safety, sanitation, fire, zoning and building;

(2) is alleged knowingly to have furnished or made any false or misleading statements to the Commissioner in order to obtain or retain a Certificate of Exemption or a Certificate of Conditional Exemption;

(3) is alleged to have failed or refused to admit the Commissioner of the Department of Children and Youth Services or his designee at any time to investigate a case or cases of suspected child abuse.

(b) Upon receipt of such notice an institution exempt from the requirements of Sections 17-48 and 17-51 of the General Statutes may file within five days a written request for administrative review by the Commissioner. The Commissioner shall hold the administrative review and render a decision concerning revocation within ten days of receipt of such request. Notice of the decision shall be sent in writing to the educational institution setting forth the reasons therefor and the right to appeal the decision to the State Board of Education. An educational institution aggrieved by the decision of the Commissioner may appeal, in writing, to the State Board of Education within five days following completion of an administrative review setting forth the reasons therefor. The State Board of Education shall hold a hearing to be conducted pursuant to Chapter 54 of the General Statutes within thirty days following receipt of such appeal.

(c) If the Commissioner finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in his/her order, summary suspension of exemption or conditional exemption may be ordered, pursuant to Section 4-182 of the General Statutes, pending proceedings for revocation or other action. Such proceeding shall be promptly instituted and determined, pursuant to Chapter 54 of the General Statutes.

(Effective September 1, 1982)