



Old Dominion Association of Church Schools

Urgent ODACS Update Major Child Care Policy Shift Coming to Virginia on July 1

May 20, 2021

In the past several years, ODACS has informed our ministries about an effort to move all Virginia child care policy from the purview of the Department of Social Services to the purview of the Department of Education, ostensibly for the purpose of promoting “school readiness.” Legislation to accomplish this goal was passed into law during the 2020 General Assembly, with an enactment date of July 1, 2021. Information about the changes are published on the VDOE web site.¹ Old VDSS Code sections §63.2-1715, §63.2-1716, and §63.2-1717 are being replaced by new VDOE Code sections §22.1-289.030, §22.1-289.031, and §22.1-289.032. Last week, many of our ministries received from VDSS an update which included important information about the upcoming change.

¹ <https://www.doe.virginia.gov/early-childhood/build-unified-early-childhood-system/index.shtml>

While the idea of the policy shift sounded enticing at first, ODACS did oppose the bills in 2019 and again in 2020. By way of reminder, we believe it is important to summarize the reasons for our opposition.

Why ODACS Opposed HB 1012 and SB 578 (2020 Session)

1. The Concept of a “Unified Public-Private System for Early Childhood Care and Development”

When proponents of the childcare policy shift lamented the “fragmented” system of early childhood care and development, we would simply replace the word *fragmented* with the word *diverse*. We are skeptical that the system needs to be “unified” in order for there to be quality.

Furthermore, does Virginia seek to establish in time a unified public-private system for K-12 education? Would not the establishment of such a unified public-private early childhood system under the Department of Education lay the foundation for a similar system for K-12 education in the future? Are we not justified in our concerns that the proposed policy shift could set the stage for future erosion of academic and religious freedom for private K-12 schools?

2. The Establishment of Aligned Learning Standards for Birth to Age 5

The Virginia Department of Education and the Virginia State Board of Education have worked very hard to establish and to implement the Standards of Learning for K-12 public schools. Under the current model, the SOL’s are legally binding upon public schools only, and private schools are not allowed to administer SOL tests even as a means of comparison.

By contrast, HB 1012 and SB 578 established learning standards, *beginning at birth*, which would immediately become legally binding on many private and religious daycares and preschools. We now know what those standards will look like, since VDOE published them for the first time two months ago.² Child care centers that choose not to participate in the implementation of the 0-5 learning guidelines will be subjected to increasing pressure to abandon their autonomy.

² <https://www.doe.virginia.gov/early-childhood/curriculum/va-elds-birth-5.pdf>

Is it really necessary for the state to begin to micromanage the upbringing of our youngest children in this way? Would not the establishment and implementation of such early childhood learning standards set the stage for the future imposition of the K-12 SOL's on private and religious K-12 schools?

3. The Proximity in Time to the Implementation of SB 539 from the 2018 General Assembly

In 2018, the General Assembly passed SB 539, which proposed a major restructuring of Virginia's child care licensure exemption code sections, §63.2-1715, §63.2-1716, and §63.2-1717. ODACS was very involved in negotiating the details of the bill, and God enabled us to successfully advocate for several amendments to the bill, amendments that are helpful to our church-run daycares, preschools, Sunday schools, and nurseries. Implementation of the bill was delayed until July 1, 2019. Since implementation of the new law, both the Department of Social Services and license exempt child care centers have been becoming accustomed to the new structure and requirements. There have been some bumps in the road, but we have worked diligently with VDSS on those issues. We believed that a significant amount of additional time was needed before the results of the implementation of SB 539 became clear. ODACS believed that the VDOE policy shift, with its new requirements and new departmental oversight, would only serve to increase confusion rather than serve to help us to settle into a new model for licensure exemption.

4. Other Reasons

There were several other reasons for ODACS to oppose the bills. One of them was the creation of a quality ratings system which is presented as if it will be objective but which in time could easily be used as a means for the state to establish curriculum controls and hiring controls for private and religious daycares and preschools.

Another reason for our objection is our belief that the end game in expansion of government control of early childhood learning is compulsory preschool. In policy meetings in the past, ODACS has heard advocacy of compulsory preschool beginning as early as age two. When we pose the question about compulsory preschool to early childhood policy experts, the experts always dodge the question. While many ODACS ministries provide early childhood care and education for families who need it, we also believe that parents should have the right to keep their children at home until they are of school age. We believe that the push for increased government control of child care is based on the premise that the state has a primary interest in the rearing of children and that the interest of the parents is secondary to that of the state. Our churches should challenge parents to closely guard their children's early development; the first five years are the most formative, and they pass quickly! Moms and dads should spend the most time with their small children and should have the biggest impact on their early development!

Additionally, we worked hard to remind the General Assembly of our contention that Religiously Exempt childcare centers are among the safest in the state, and that they may indeed be the safest. To support this claim, we asked that the General Assembly examine the data gleaned from VDSS reports of founded cases of child abuse that occur in out-of-family settings. Our examination of the data found that in a recent 5-year period, a founded case of child abuse, while rare in both licensed and Religiously Exempt settings, was nearly 5 times less likely to occur in a Religiously Exempt center as it was to occur in a licensed center.^{3 4}

³ <http://vaodacs.com/assets/Uploads/PDF-Files/Childcare/Virginia-Child-Abuse-Safety-Gap.pdf>

⁴ <http://vaodacs.com/assets/Uploads/PDF-Files/Childcare/VCPS-Investigations-Summary-2009-2014.pdf>

Furthermore, to understand ODACS perspectives on various childcare policy proposals, it must be understood that ODACS always examines such proposals through the lens of Separation of Church and State. ODACS daycares and preschools are ministries of local Independent Baptist churches. ODACS ministries actively supported Virginia's Religious Exemption from Child Care Licensure when it was first passed into law in 1979. Several ODACS ministries were named as defendants in the legal challenge to the Religious Exemption, which finally ended in 1988 when the United State Court of Appeals for the Fourth Circuit found that the law is not unconstitutional, the United State Supreme Court subsequently declining to hear the case.⁵ The Religious Exemption from Child Care Licensure is the first in Virginia Code because

among the licensure exemptions it has the deepest roots both historically and legally. ODACS therefore earnestly guards the Religious Exemption and defends it from proposals that we believe would move it in the direction of licensure or of licensure-in-effect.

⁵ <https://law.justia.com/cases/federal/appellate-courts/F2/846/260/397215/>

What ODACS Ministries Can Expect After July 1

1. Protections for church-run ministries, including the Religious Exemption from Child Care Licensure will still be intact.

During the 2020 General Assembly, ODACS did carefully monitor HB 1012 and SB 578 to make sure that all of the Religious Exemption language was retained, without any additions or subtractions. The Religious Exemption language was essentially copied from the Social Services sections of the Code (Title 63) and pasted to the Department of Education sections of the Code (Title 22). After July 1, all of the language that we advocated for in 2018 during the amending process for SB 539, as well as all of the ratio language for which we successfully advocated in 2020 via HB 1235 and SB 927, will be carried over to a new Code section, §22.1-289.031. This continued protection is a direct result of ODACS efforts to defend the Religious Exemption.

Additionally, the definition of Sunday School, church nurseries, and vacation Bible school as not being considered child care for purposes of the law and therefore as not being subject to licensure will be carried over to a new Code section, §22.1-289.030. This continued protection is a direct result of ODACS efforts to protect our churches' children's ministries.

Additionally, the licensure exemption for certified preschools will be carried over to a new Code section, §22.1-289.032. This exemption applies to preschool programs that have acquired VCPE-recognized accreditation. ODACS schools can obtain such accreditation by having their preschool accredited by AACS and by adding to that accreditation by the North American Christian School Accrediting Agency and by the Virginia Council for Private Education. Currently, there is one ODACS preschool that has such accreditation, and two more ODACS preschools are pursuing such accreditation. **For the past five years, ODACS has believed that the ultimate survivals of both the Religious Exemption and the Certified Preschool Exemption are closely linked. Because of this, we have begun advising our preschools to strongly consider obtaining AACS, NACSA, and VCPE accreditation, in addition to the Religious Exemption, so that they have a double layer of protection from state control. We continue to view the Religious Exemption as the most important licensure exemption, and we intend to defend it vigorously. However, given the current environment in child care policy, we believe that having the two-fold protection is prudent.** If you are interested in more information about this recommendation, please contact the ODACS office. You may also contact AACS to purchase the AACS Child Development Center Accreditation Manual.

2. Some of our ministries will need to develop relationships with new licensing personnel after July 1.

Each year, our church-run preschools and daycares submit paperwork to VDSS verifying their compliance with the basic safety standards that are a condition of the Religious Exemption from Childcare Licensure. Many of you have known for a long time the local licensing official who processes that paperwork and then sends you a letter of acknowledgment. Our understanding is that all of the VDSS licensing officials are being offered jobs with VDOE. You may wish to contact your licensing official to find out if that person plans to make the move over to VDOE. If so, you will want to maintain contact with that person throughout the transition. If the person is not accepting a position with VDOE, you will need to learn who the new licensing official will be and begin developing a relationship with that person.

As a reminder, ODACS ministries view the paperwork process for the Religious Exemption differently from the way that most licensing officials view it. Licensing officials tend to view our paperwork submission as a "request for approval" and their subsequent annual letter as "approval." On the other hand, we view our

paperwork submission as an act of informing the licensing official of our compliance with the Code and their letter as acknowledgment of having received that information. Our ability to articulate and to defend our perspective may become important in the future!

3. A new Early Childhood Advisory Council has been appointed.

The council does include two seats representing license exempt child care centers. On behalf of ODACS, I applied for an appointment to one of the seats, but I was not selected. Our schools with VCPE-recognized accreditation will be interested to learn that Grace Creasey has been appointed to the council, representing VCPE. ODACS plans to begin closely monitoring the ECAC's meetings.

4. VDOE plans to review all early childhood policies over the course of the next year.

The May 7 memo from VDSS indicates that VDOE will be conducting a thorough policy review over the coming year, with the cooperation of the Early Childhood Advisory Council. Of course, we are very concerned about what proposals will be made as a result of this review. We plan to monitor this process closely, and we will let you know of any proposals that could affect our ministries. Please be ready to participate in offering feedback to VDOE if the need arises.

5. VDOE's Learning Guidelines for Birth to 5 have been published.

ODACS finds it difficult to believe that anybody would advocate state mandated learning standards for infants and toddlers, but here we are! The 0-5 guidelines were published for the first time in March. The standards represent a long list of "progressive" ideas for children's self-esteem and feelings-based development. "Social-emotional learning" is the cornerstone; absent from the guidelines is any learning about objective truth or about an objective standard of right and wrong.

On July 1, the 0-5 learning guidelines will immediately become mandatory for all providers that accept taxpayer funded subsidies, including many church-run ministries. For ODACS ministries and others who do not accept taxpayer subsidies, participation will be voluntary for at least the first two or three years. However, we can anticipate that there will be increasing pressure placed upon our ministries to implement the 0-5 learning guidelines, very possibly including new legislative and/or regulatory proposals. **ODACS advises its ministries to continue to decline participation in early childhood government subsidies and to steadfastly decline implementation of the 0-5 learning guidelines.**

6. A VDOE early childhood "Uniform Measurement and Improvement System" is being developed.

For many years, advocates of increased government control of child care have pushed for a unified quality rating system, defined by and controlled by the state. The new child care law mandates the implementation of this system. The years 2021-2022 and 2022-2023 are designated as practice for implementation, with participation voluntary. The first year of full implementation will be 2023-2024, and participation will be required of all licensed centers and of all centers that receive taxpayer subsidies. License exempt centers that do not accept subsidies will be allowed to participate voluntarily, and we anticipate that increased pressure will be placed upon such centers to do so. Of course, the ratings will be presented as if they were an objective measurement of quality; however, ODACS is concerned that they will become a tool for exercising state control over curriculum and hiring. VDOE has already conducted a series of webinars about the new system, and links to the recordings are available on their web site.

Of course, we are also concerned about the possibility that this could lead to a similar state-controlled system for measuring quality of both public and private K-12 instruction as well.

ODACS advises its ministries to decline participation in the state-controlled quality ratings system for early childhood care and education. We also believe that it will become increasingly important for our ministries to put forward their own positive message about daycare and preschool quality based on a Christian education philosophy.

7. ODACS ministries should take steps to ensure the financial stability of their K-12 programs.

It is not uncommon for church-run schools to deliberately set up a financial model whereby the K-12 program is financially dependent upon the daycare. We believe that such a model is not prudent, especially given the current environment with child care policy. If your ministry finds itself in such a situation, ODACS advises that you immediately begin taking budgeting steps to ensure that your daycare/preschool pays for itself while your K-12 school also pays for itself.

Final Thoughts

ODACS ministries are encouraged to carefully examine the mission and philosophy of their early childhood programs. Clear communication to parents of the mission and philosophy will become increasingly important in the next several years, as will deliberate training of all early childhood personnel. A renewed emphasis on teaching a Biblical philosophy of family life and of child rearing is urgently needed in our pulpits and in our classrooms. Parents need to be challenged from the Bible to defend their rights to rear their own children, and they need to be encouraged to make the most of the opportunity to have a positive spiritual and emotional impact on their children's lives during the years from birth to school age. Finally, let us pray earnestly for God's protection over our families and our ministries, that our children will be kept safe from physical and spiritual harm, that they will accept Jesus Christ as Savior at an early age, that they will grow in their knowledge of and love for God's Word, and that they will be set upon a path of life-long service to Jesus Christ and to others in their local churches and in their communities!

Psalm 127:3-5

Lo, children are an heritage of the LORD: and the fruit of the womb is His reward.

As arrows are in the hand of a mighty man; so are children of the youth.

Happy is the man that hath his quiver full of them: they shall not be ashamed, but they shall speak with the enemies in the gate.

Proverbs 22:6

Train up a child in the way he should go: and when he is old, he will not depart from it.

Ephesians 6:4

And ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord.

II Timothy 3:14-15

But continue thou in the things which thou hast learned and hast been assured of, knowing of whom thou hast learned them;

And that from a child thou hast known the holy scriptures, which are able to make thee wise unto salvation through faith which is in Christ Jesus.

Joshua 24:15

And if it seem evil unto you to serve the LORD, choose you this day whom ye will serve, whether the gods which your fathers served that were on the other side of the flood, or the gods of the Amorites, in whose land ye dwell: but as for me and my house, we will serve the LORD.

Matthew 18:3-5

And said, Verily I say unto you, Except ye be converted, and become as little children, ye shall not enter into the kingdom of heaven.

Whosoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven.

And whosoever shall receive one such little child in My name receiveth Me.

Sincerely,

Dan Zacharias
Executive Director