



## **Old Dominion Association of Church Schools**

### **IMPORTANT UPDATE – NEW REQUIREMENT FOR RECDC’S REPORTING OF DEATHS AND OF SERIOUS PHYSICAL INJURIES**

Originally Published August 2, 2019

**Updated June 17, 2022**

Dear ODACS Friends,

On July 1, 2019, new laws for Religiously Exempt child day centers came into effect. Among the new requirements is the reporting of deaths and of serious physical injuries that occur to children while in the care of the center. Now that this new requirement is the law, it is important for each ODACS ministry to understand the purpose and history of the requirement, to equip its staff with an understanding of the requirement, and to continually make sure that your ministry is in compliance with the requirement. This memo will discuss three important topics.

- 1. The Death Reporting Requirement**
- 2. The Serious Physical Injury Reporting Requirement**
- 3. Background of the New Requirements (including the history of ODACS negotiations during the legislative process)**

#### **1. The Death Reporting Requirement**

Here is a portion of the new section of the Code, § 22.1-289.031.

B. The center shall establish and implement procedures for:

7. Ensuring that all incidents involving...death of children attending the child day center are reported to the Superintendent. ... Reports of deaths shall be submitted no later than one business day after the death occurred.

If a child were to die while in the care of your preschool or daycare ministry, you would have 24 hours within which to file an online report to the Virginia Department of Education. The report can be filed online; use this link to find the reporting page.

<https://www.doe.virginia.gov/cc/community/index.html?pageID=10>

Here are several things that the person filing the report will need to know.

1. Once you have found the VDOE web page for reporting deaths and serious physical injuries, click on the link that says *Child Requiring Outside Medical Treatment or Death form*. This will take you to a DocuSign page where you will enter your name and e-mail address
2. Do not be concerned that the instructions on the main page mentions reporting serious injuries within two business days. The Code requires only an annual report for serious physical injuries. However, a fatality must be reported within one business day.
3. Beside *Type of Provider*, select *Religious-Exempt Child Day Center*.
4. Beside *Licensed Provider*, select *No*. Also select *No* beside *Approved Subsidy Provider*. **It is important to select NO beside Approved Subsidy Provider since your ministry does not accept taxpayer subsidies for the operation of your preschool or daycare.**
5. Under *Type of Injury/Incident*, choose *Fatality*, and then complete the remainder of the report.

If such a serious tragedy were to occur at your ministry, you can imagine that your office would be a very hectic place, busy with urgent inquiries and communications. It would be very easy for this important task to be neglected in the rush of emotions and confusion that is likely to ensue. ***Therefore, ODACS recommends that you annually train your staff regarding this requirement, that you keep a dedicated file with information about this requirement, and that you annually designate a person whose responsibility it will be to file the online report within the 24-hour period.***

## 2. The Serious Physical Injury Reporting Requirement

Here is another portion of the new section of the Code, § 22.1-289.031.

B. The center shall establish and implement procedures for:

7. Ensuring that all incidents involving serious physical injury ... to children attending the child day center are reported to the Superintendent. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually.

Your preschool or daycare ministry is now required to file an annual report about serious physical injuries that children sustain while in the care of your ministry. The report can be filed using the same online reporting page using this same link.

<https://www.doe.virginia.gov/cc/community/index.html?pageID=10>

Here are several things that the person filing the report will need to know.

1. The acrostic IROMT stands for “Injury Requiring Outside Medical Treatment.”

2. It is important to note that the definition of “serious physical injury” is included in the Code section. This reporting requirement extends only to “those physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital.” **Any injuries that do not meet this definition do not need to be reported!**
3. Once you have found the VDOE web page for reporting deaths and serious physical injuries, click on the link that says *Child Requiring Outside Medical Treatment or Death form*. This will take you to a DocuSign page where you will enter your name and e-mail address
4. Do not be concerned that the instructions on the main page mentions reporting serious injuries within two business days. The Code requires only an annual report for serious physical injuries. However, a fatality must be reported within one business day.
5. Use the online form to identify the type of serious physical injury that required an emergency referral to an offsite health care professional or treatment in a hospital.
6. Throughout the year, keep a file with written reports about each incident that will need to be reported. Include in each written report all of the information that will be needed to complete the annual report online.
7. **What if a student sustains a physical injury while at your ministry, and then after hours the parent seeks outside medical attention without the knowledge of your staff?** We think that the best way to address this potential problem is to be proactive. ODACS advises its ministries to include information about the reporting requirement in its preschool or daycare parent manual. Inform parents during the interview process and/or orientation process that all child care centers in Virginia are subject to this requirement, and then ask them to communicate openly with your staff when they think that outside medical attention is necessary because of a physical injury sustained at your ministry.
8. VDOE typically aggregates its annual data with a report period that begins on July 1 and ends on June 30. ***Therefore, ODACS advises ministries to file the annual report each year during the first week of July and to include all incidents that occurred during the previous July 1 through June 30 period.*** The person responsible for filing the report will need to complete a new online form for each incident that occurred during the previous 12-month period. If no serious physical injuries occurred, ODACS advises each ministry to complete a report with the following statement in the box marked “Please give a brief summary of the incident”: *“No incidents of serious physical injury occurred at Virginia Baptist Preschool from July 1, (year), to June 30, (year).”*

***As with the death reporting requirement, ODACS recommends that you annually train your staff regarding the serious physical injury reporting requirement, that you keep a dedicated file with information about this requirement, and that you annually designate a person whose responsibility it will be to file the online report during the first week of July.***

### 3. Background of the New Requirements

Discussions and negotiations regarding the new reporting requirements for RECDC's began in August, 2016. The purpose of the requirement is to collect data which will show which childcare settings are safe and which are unsafe. Proponents of expanding government control over childcare routinely characterize Religiously Exempt childcare centers as unsafe, and the basis for their claim is simply the fact that such centers are unlicensed. Anecdotes of real tragedies at Religiously Exempt centers are offered as evidence, while similar tragedies that occur in licensed centers are conveniently omitted from the conversation. ODACS has publicly taken exception to the disingenuous nature of these claims. However, when we do so, the default response on the other side is to bemoan the lack of data that could prove the point on either side of the argument. Despite the admission that there is insufficient data, the disingenuous claims persist. If you have read any news article about a tragedy in Religiously Exempt center, you likely found an immediate focus on the implication that the tragedy could have been averted had the center only been licensed.

In 2016, ODACS combed through about 100 pages of VDSS reports on child abuse that occurs in out of family settings, and we concluded that a founded case of child abuse is nearly five times less likely to occur in a Religiously Exempt center than it is to occur in a licensed center. We have disseminated that information to the General Assembly and to VDSS (prior to the shift of childcare policy to VDOE); so far, there has been no attempt by VDSS or by any other organization to refute our findings. The data that we used covered a period from 2009-2014, and we are currently in the process of updating the findings.

**We believe that in years to come the new requirement will help to demonstrate our claim that Religiously Exempt child care centers are among the safest in the state, if not the safest!**

The Lord gave ODACS success in two critical aspects of the negotiations regarding the new reporting requirement. First, because the original draft of [SB 539](#) (2018 session) gave the Board of Social Services power to define the term *serious injury*, we worked hard to secure a definition in Code instead. With the Lord's help, and with the help of Delegate Bobby Orrock, we were able amend the bill so that the definition is included in the Code instead of in VDSS (now VDOE) regulations. The result is the language about injuries that require referral to an offsite health care professional or treatment in a hospital.

Second, the initial draft of the bill used the term *serious injury* instead of the term *serious physical injury*. ODACS believes that the absence of the word *physical* could pose a potential threat to our ministries in the future, especially in this age of gender confusion and of open attacks on the most basic truths of God's Word. A serious injury could become a perceived emotional or psychological harm said to be perpetrated on the student by the childcare center, and outside medical treatment could be interpreted to mean psychiatric treatment. As we lobbied for the inclusion of the word *physical*, we asked VDSS and others if that understanding was not indeed the intent of the legislation after all. We could never get anybody to answer that simple question. In fact, not only

could we not get an answer to the question, we encountered stiff behind-the-scenes opposition to the addition of the word. Again, with the Lord's help, and with the help of Delegate Bobby Orrrock, we were able amend the bill so that the word *physical* was added to the term *serious injury*.

**Important Reminder - In which ministry settings is a church subject to these new requirements?**

This is a very important question. The short answer is that the regulations apply only to those ministries that operate under the Religious Exemption from childcare licensure. The following lists should provide a helpful reminder.

**Ministries that ARE considered RECDC's under Virginia law – preschool, daycare, before-school care, after-school care.**

**Ministries that ARE NOT considered RECDC's under Virginia law – K-12 day school, Sunday school, church nursery, vacation Bible school, bus ministry.**

If your church operates any ministry to children that does not appear on either of these lists, you may want to seek further advice about whether the law would view that ministry to be a child day center.

Please continue to pray for the Lord's protection for our churches, for our Christian schools and daycares, and for the children and families whom we serve! The issues surrounding childcare policy in Virginia are ongoing and complex, and we will continue to need God's wisdom and guidance as we minister to children. Thank you!

Sincerely,

Dan Zacharias  
Executive Director