



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

### **IMPORTANT UPDATE – NEW STAFF-CHILD RATIOS FOR RECDC’S**

July 12, 2019

Dear ODACS Friends,

On July 1, new laws for staff-child ratios for Religiously Exempt child day centers came into effect. Both ODACS and VDSS informed our ministries of those ratios in advance. Now that the new ratios have become law, it is important for each ODACS ministry to pay close attention to the ratios in each ministry setting that operates under the Religious Exemption from childcare licensure. This memo will remind you about three very important, and sometimes confusing, aspects of the ratio law.

- 1. What are the new VDSS staff-child ratios?**
- 2. In which ministry settings is a church subject to the VDSS staff-child ratios?**
- 3. What is the meaning of this important sentence in Virginia Code? “In each grouping of children, at least one adult staff member shall be regularly present.” (63.2-1716.A.3)**

#### **1. What are the new VDSS staff-child ratios?**

The following chart shows the staff-child ratios prior to July 1 in the left column and the new ratios in the right column.

<b>REDCD Staff-Child Ratios</b>	
<b>Prior to July 1, 2019</b>	<b>Beginning July 1, 2019</b>
1:4, Ages 0-24 months	1:4, Ages 0-16 months
	1:5, Ages 16-24 months
1:10, Ages 24 months to 6 years	1:8, Ages 24-36 months
	1:10, Ages 36 months to 5 years
1:25, Ages 6 years and older	1:20, Ages 5-9 years
	1:25, Ages 9-12 years

The net changes are mixed. For ages 16-24 months, the new ratio is more generous; for ages 24-36 months, the new ratio is stricter; and for ages 5-9 years, the new ratio is stricter. For the other ages, the ratios are unchanged. Of course, the new set of ratios includes more detail, which will make keeping track of compliance a bit more involved.

Remember that in the original draft of Senate Bill 539 in 2018, the ratio for 5-9 years was 1:18, and the ratio for 9-12 year was 1:20. ODACS requested that the bill be amended to the 1:20 and 1:25 ratios, arguing the undue financial impact that the other ratios for school-age children would have in a before- and after-school care setting at a K-12 private school. We were happy to be able to report that the General Assembly adopted our amendment.

## **2. In which ministry settings is a church subject to the VDSS staff-child ratios?**

This is a very important question, and in the past it has been the cause of some confusion among our ministries as well as among a few VDSS inspectors. 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.

## **3. What is the meaning of this important sentence in Virginia Code? “In each grouping of children, at least one adult staff member shall be regularly present.” (63.2-1716.A.3)**

*This is another extremely important question; please read this section thoroughly and carefully!*

There are two possible interpretations of this sentence in the Code.

Interpretation #1 – The words *each grouping* refer to age groupings on the ratio chart. Under this interpretation, a group of children with different ages cannot be considered as a single group under the care of one adult. For instance, if the group includes one four-year-old, one six-year-old, and one nine-year old, there should be three adults watching the three children. If a VDSS inspector were to find this group being cared for by one adult, the inspector would have no option but to cite the provider for a violation.

Interpretation #2 – The words *each grouping* refer simply to each group of children being cared for, regardless of the ages. Under this interpretation, a group of children with mixed ages is considered a single group, and the ratio of the youngest child present would be the ratio that applies to the group. In the scenario mentioned earlier, since the ratio for four-year-olds is 1:8, the center would be in compliance. If a VDSS inspector were to

encounter the same scenario, the inspector would have no grounds to cite the provider for a violation.

**ODACS understands Interpretation #2 to be the correct interpretation.** This understanding is based on face-to-face conversation with state-level licensing officials during the licensure exemption study group meetings in 2016. However, we have become aware that since July 1, some VDSS inspectors have cited Religiously Exempt centers for violations based on Interpretation #1. To our knowledge, no ODACS ministry has yet been cited in this way; however, our ministries need to be prepared for the possibility. Earlier this week I had a long phone conversation with the administrator of a Religiously Exempt center that is not a member of ODACS. On July 2, the center was cited for a ratio violation after debating with the inspector about the interpretation of that sentence in the Code. The administrator is preparing to appeal the inspector's decision. The administrator also told me that she has heard of several other centers being cited in the same way, and even of some that have ceased operations because of this problem.

***If your ministry encounters a problem related to this part of the ratio requirements, please contact the ODACS office immediately!*** We will be happy to work with you to resolve the problem.

***Additionally, we intend to seek a legislative solution to this problem.*** I plan to draft proposed language to help clarify the Code, and then we will ask a couple of General Assembly members to sponsor a bill. Remember that all 140 General Assembly seats are up for election this November, and the election results will have a direct impact on this particular effort.

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