



Old Dominion Association of Church Schools

Update for Church-run Preschools and Daycares Potable Water Testing Requirement – VDOE Update, Dated April 5, 2024

September 3, 2024

Dear Pastors and Administrators,

On April 5, VDOE sent a memo to all Religiously Exempt preschools and daycares. The subject of the memo is a new testing requirement for potable drinking water for children in our preschools and daycares. According to the memo, the new requirement takes effect on January 1, 2025. In addition to watching the VDOE webinar on May 7, ODACS has consulted with an expert in the environmental services field. This update includes some long-awaited questions and answers that we hope will be helpful to our churches and schools.

Why is this new requirement in place?

In 2020, the General Assembly passed a law requiring licensed and Religiously Exempt child care facilities to test their potable water for lead. ODACS opposed the legislation on the basis that it would create a lot of red tape in order to solve a non-existent problem. However, it is important to understand that this is really another move by the federal government to exert control over states. The EPA is motivating states to pass these potable water testing laws, and a future effort to expand the applicability of this requirement is very possible.

To what ministries does the new requirement apply?

The new Virginia law applies the requirement only to our Religiously Exempt preschools and daycares. If your church does not have a preschool or daycare, then the requirement does not apply to you.

Does the source of our water have any impact on the requirement?

No, it does not. The requirement applies regardless of whether your water source is public or private. The purpose of the testing is not to learn whether there is lead in your water source; the purpose is to find out if there is lead in any of the pipes in your building.

When does the new requirement take effect?

You may begin testing immediately. However, VDOE will not begin checking paperwork on this requirement until after January 1. ODACS advises you to include this paperwork with the binder that includes all of your paperwork related to the Religious Exemption from Child Care Licensure.

Does the new requirement have to be done annually?

Our understanding is that the new requirement must be completed only once. In other words, once your ministry has completed the tests and passed, you should not have to have your water tested again. Of course, if your facilities do not pass the test, some form of remediation will be required.

The environmental services expert that ODACS consulted with has advised that you keep the records from these tests until at least 2032. Our understanding is that the rationale for that advice is that an expansion of the testing requirement in Virginia law is anticipated by 2032.

Is there an alternative to the testing requirement?

Yes, but the alternative appears to be extremely impractical. The alternative is to use bottled water instead of tap water for human consumption. However, the definition of *human consumption* includes much more than just water used for drinking; it includes water used for such activities as hand washing, food preparation, and dish washing. Because of the broad definition, the alternative of using bottled water could be highly impractical and even expensive.

Whom must we notify about our testing plan?

Our understanding is that the new law requires you to notify the Virginia Department of Education, the Virginia Department of Health, and parents about your testing plan and results.

Who can test our water for us?

One option is to have your water tested by the state of Virginia. The Virginia Department of General Services offers potable water testing through its Division of Consolidated Laboratory Services (DCLS). You can learn more about DCLS and contact them with questions by visiting this web site.

<https://dgs.virginia.gov/division-of-consolidated-laboratory-services>

Another option is to use a private laboratory that has the proper certification by DCLS to conduct such tests. The private company with which ODACS has consulted is Inboden Environmental Services. IES is a reputable company and is certified by DCLS to test potable water. The general manager of IES, Mark Inboden, is a Christian, a member of an Independent Baptist Church, and a graduate of an ODACS school. We believe that you can anticipate a reasonable turnaround time if IES conducts the tests. You can learn more about IES and contact them with questions by visiting their web site. IES can further advise your ministry about submitting your potable water testing plan and results to VDOE.

<https://inbodenenv.com>

Does somebody come onto our property to collect the water samples?

Our understanding is that you will collect the water samples yourself. After you submit an order, sample collecting equipment will be shipped to you, along with detailed instructions about how to collect the samples. You will then ship the samples back to the

lab for testing, along with certification that you followed the proper protocol for collecting the samples.

Do all of the water taps in our facilities need to be tested?

Our understanding is that this requirement applies only to those water sources that may be used by your daycare or preschool students at any time. However, IES advises that a small ministry have at least 10 taps tested, if possible. The reason for this advice is that in order to pass overall, 90% of your taps must pass the test. If you have fewer than 10 taps tested, then it takes only 1 failed test to fail to reach the 90% threshold.

How much will the testing cost?

In an earlier communication from ODACS, we estimated that the cost of testing could be between \$500 and \$2,500, approximately, based on how many taps need to be tested. According to IES, the cost to test one water sample is \$42, and our understanding is that 2 samples need to be collected from each tap. Of course, you will incur a shipping cost as well. ODACS does not have an estimate for the cost if the testing is done by DCLS.

What if we have difficulty getting the testing completed by January 1?

The advice that we have received from IES is that you have your testing program at least “in process” by January 1, if not completed by January 1. If you are able to start right away, you should be able to have the testing completed by January 1. However, if your testing is “in process” and a VDOE inspector shows up on January 2, we do not believe that you will be found to be out of compliance.

While ODACS is not certain about how and when VDOE will check for compliance, we believe that it will be part of your 2025 annual VDOE inspection.

Would our ministries be under the potable water testing requirement had HB 222 and/or SB 76 passed in the last General Assembly?

You will recall that in January ODACS spearheaded a legislative effort to place our church-run preschools and daycares on the same legal footing as all of our other children’s ministries. HB 222 and SB 76 would have freed our preschools and daycares from VDOE oversight. Had the bills passed, our ministries would not be subject to this new law. Nevertheless, ODACS believes that there is a strong chance that a bill expanding this requirement to our other children’s ministries, most likely our K-12 schools first, will be attempted in the not too distant future.

What if we have additional questions?

ODACS is happy to try to help you with additional questions. However, we believe that either IES or your VDOE inspector can do a better job of helping you with more questions.

Sincerely,

Dan Zacharias
Executive Director