



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

### **IMPORTANT UPDATE VDSS IMPLEMENTATION OF FINGERPRINT BACKGROUND CHECKS RELIGIOUS EXEMPT PRESCHOOLS AND DAYCARES**

March 28, 2018

Dear ODACS Friends,

Some interesting developments have taken place since the last memo from this office on March 11. First, many of our ministries followed ODACS advice and submitted their contact information to Deborah Eves late on March 13, along with a statement of their desire to decline any federal subsidy for compliance with the new fingerprint background check law. We appreciate several of you who forwarded her response to ODACS for our information; the responses from VDSS came quickly and of course were all exactly the same.

Predictably, we finally received a response from the Attorney General on March 15. Delegate Orrock called me on the 15<sup>th</sup> to tell me what the Attorney General's answer is. Essentially, the AG's office has said that since VDSS has changed its policy, our questions are now moot, and the AG's office has decided to close the file without answering the questions. Delegate Orrock then mailed the response letter to me.

#### **WHAT DOES THE AG'S RESPONSE MEAN?**

First, since the AG's letter refers to the VDSS policy, we know that VDSS and the AG's office have been in communication throughout this process. It is reasonable to assume that Mr. Herring's staff did not want to answer our questions and therefore pressured VDSS to make a way for our ministries to self-pay.

Second, I interpret the response as an indication that our concerns are indeed valid. The VDSS policies of using federal money to pay for background checks and of giving childcare centers no other option were actually a form of entrapment designed to obligate our ministries to new federal rules by default. Furthermore, the policies were illegal.

In other words, the Lord has given us a small, short-term victory in this matter, protecting us for the time being from regulatory requirements that would violate our Biblical beliefs. Our immediate goal in seeking the Attorney General's opinion was to

avoid obligating our ministries to new federal rules, and that objective has been accomplished.

## **WHAT IS THE NEXT STEP?**

The time has come for our ministries to begin complying with the new law. However, several questions remain or have arisen in the past few days.

1. **What is the deadline?** Although VDSS has yet to publish any deadline, Deborah Eves has told me that the compliance deadline for all childcare centers is September 30. Therefore, I do not think that our ministries have to be in a big hurry.
2. **Can our appointment scheduling be done in a convenient and efficient manner?** I am already hearing that some of our ministries are encountering what seem to be unreasonable requests from Fieldprint. For example, one ministry, which is more than an hour from the nearest Fieldprint office, has more than twenty staff that need to get background checks, but Fieldprint is asking them to bring only two or three people at a time. Since we now know that the deadline is September 30, a ministry in a similar situation may consider trying to work with Fieldprint to schedule a more convenient date in the late spring or summer.
3. **Can we also wait until September 30 to get the new background checks for new employees or volunteers?** No. According to the law, new employees or volunteers must get the fingerprint background check completed immediately before beginning to work in your preschool or daycare. The September 30 deadline applies only to current employees and volunteers.

The effort to defend our children's ministries is far from over. In Pennsylvania, churches are already required to get fingerprint background checks for Sunday school teachers, nursery workers, youth workers, etc. ODACS still believes that the Virginia requirement is unfair because our ministries do not accept the federal funding that is the basis of this federal requirement. The federal government, through VDSS, is placing the background check rule on our ministries as a means of qualifying other childcare centers for federal funding. This new appropriations dynamic, besides being fundamentally unfair, presents us with a dangerous slippery slope; once such a method of dispersing taxpayer dollars takes root, it will be a short step for the government to take from using it as a means of coercing safety requirements to using it as a means of coercing our ministries in matters of conscience and conviction. Remember that our Virginia law still includes a sunset clause and an enactment clause, meaning that we still have opportunity to try to undo what has been done. Please continue to pray for God's direction and protection for our ODACS ministries! Thank you!

Sincerely,

Dan Zacharias  
Executive Director