



Old Dominion Association of Church Schools

Date: April 3, 2019

To: Tara Ragland
Sharon Stroble
Deborah Eves

Re: Questions Regarding Recent March 26 Memo to Religious Exempt Child Daycare Centers

ODACS appreciates the information that VDSS just sent to Religiously Exempt Child Day Centers. In order to be better able to advise our ODACS ministries, I need your help with several questions regarding the updated documents. I appreciate any answers you can provide.

1. Regarding the Booklet *Information for Religiously Exempt Child Day Centers*
(We currently do not find a link to that PDF file on the RECDC web page.)

Is the booklet no longer available? Is it being replaced by the memo entitled *Documentation for Religiously Exempt Child Day Centers*? Or, rather, will it be updated and released again in time to include the new requirements that take effect on July 1?

2. Regarding the RECDC Monitoring Checklist

Has VDSS provided this for information purposes only? Is our understanding correct that the checklist is for use by VDSS inspectors only?

3. Regarding a New Requirement on the Statement of Intent

The Statement of Intent requires that the fire and health inspections for Religious Exemption renewal purposes be completed “within the prior 180 days.” ODACS believes this to be an unreasonable and unnecessary standard. Fire and health inspections are typically done annually, and so long as they both are current, the facility should be considered safe. Compliance with the standard “within the prior 180 days” may be easy for some of our ministries because the annual pattern of scheduling already meets that standard. However, for other ministries it may be difficult, or even impossible, to meet. In general we are unable to dictate to or demand of the fire and health inspectors the date of their inspections. Does VDSS have specific statutory authority for this standard? Tara, may you and I discuss this matter in order to try to find a solution?

4. Regarding the New Requirement of Documentation that the Child Care Center Operates “Under the Auspices” of a Religious Institution

Thank you for taking this new initiative to weed out the “bad actors” that exploit the Religious Exemption and thereby cause problems for legitimately exempt centers! ODACS needs to advise its ministries about appropriate ways to document that they meet the “under the auspices” standard. Ideas that come to my mind immediately are a copy of the church constitution, stating the relationship between the church and the child care center; a copy of the parent manual for the school, preschool, or daycare, again stating the relationship between that ministry and the church; and a ministry-wide organizational chart. Would each of these be acceptable forms of proof for VDSS? Is there any other acceptable form of proof? Is a well-written narrative on the Statement of Intent sufficient?

5. Regarding the June 1 Date Cited in the Memo

Does this mean that all centers must submit the new documents by June 1, regardless of their renewal date? Or does it mean that a center whose renewal date is prior to June 1 should use the current documents, and a center whose renewal date is June 1 or later must use the new documents?

6. Regarding the Requirement to Supply Evidence of Religious Exempt Status

According to IRS Publication 1828, page 2, “Churches that meet the requirements of IRC Section 501(c)(3) are automatically considered tax exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS.” Because of this provision, it is very common for a church and its related ministries to have no documentary proof of 501(c)(3) status. Therefore, should not the documentation offered as proof of having met the “Under the Auspices” standard suffice as proof of having met this standard as well?

7. Regarding the Staff-Child Ratio Information Sheet?

When will the Staff-Child Ratio Information Sheet be updated to reflect the upcoming changes required by SB 539 from the 2018 legislative session?

I appreciate any help that you can give with these questions. As you can imagine, many of our ministries contact the ODACS office for assistance with understanding VDSS information and with questions about compliance. I look forward to hearing back from you soon, and I would welcome the opportunity of a phone conversation or face-to-face meeting if either can be worked out.

Sincerely,

Dan Zacharias
Executive Director of ODACS



COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

Date: April 10, 2019

To: Dan Zacharias, Executive Director of ODACS

From: Tara Ragland, Director, Division of Licensing Programs

Re: Questions Regarding March 26 Memo to Religious Exempt Child Daycare Centers (RECDC)

Thank you for the recent communication aimed at clarifying changes to the RECDC certification process. I hope you will find these responses helpful.

1. Regarding the Booklet *Information for Religiously Exempt Child Day Centers*

(We currently do not find a link to that PDF file on the RECDC web page.) Is the booklet no longer available? Is it being replaced by the memo entitled *Documentation for Religiously Exempt Child Day Centers*? Or, rather, will it be updated and released again in time to include the new requirements that take effect on July 1?

Yes. The July 2014 document, “Information for Religiously Exempt Child Day Centers (RECDC),” has been revised and is now titled “Documentation for Religiously Exempt Child Day Centers.” This document is available on the VDSS website. It will be updated accordingly to reflect any changes to the Code of Virginia.

2. Regarding the RECDC Monitoring Checklist

Has VDSS provided this for information purposes only? Is our understanding correct that the checklist is for use by VDSS inspectors only?

Yes. The “RECDC Monitoring Checklist” is a tool developed for use by inspectors to guide them through the Code requirements to review during an inspection. The checklist is a reiteration of the Code of Virginia § 63.2-1716.

3. Regarding a New Requirement on the Statement of Intent

The Statement of Intent requires that the fire and health inspections for Religious Exemption renewal purposes be completed “within the prior 180 days.” ODACS believes this to be an unreasonable and unnecessary standard. Fire and health inspections are

typically done annually, and so long as they both are current, the facility should be considered safe. Compliance with the standard “within the prior 180 days” may be easy for some of our ministries because the annual pattern of scheduling already meets that standard. However, for other ministries it may be difficult, or even impossible, to meet. In general we are unable to dictate to or demand of the fire and health inspectors the date of their inspections. Does VDSS have specific statutory authority for this standard? Tara, may you and I discuss this matter in order to try to find a solution?

The Code of Virginia, 63.2-1716.A.2 requires that “within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center”. VDSS understands that locality issues may impact when local fire and health and health agencies can complete the inspections and that their schedule to inspect facilities may differ slightly from the timeframes identified in the Code. VDSS will exercise reasonableness with providers in these situations. We just ask that providers make the request annually and document that the request was made.

4. Regarding the New Requirement of Documentation that the Child Care Center Operates “Under the Auspices” of a Religious Institution

Thank you for taking this new initiative to weed out the “bad actors” that exploit the Religious Exemption and thereby cause problems for legitimately exempt centers! ODACS needs to advise its ministries about appropriate ways to document that they meet the “under the auspices” standard. Ideas that come to my mind immediately are a copy of the church constitution, stating the relationship between the church and the child care center; a copy of the parent manual for the school, preschool, or daycare, again stating the relationship between that ministry and the church; and a ministry wide organizational chart. Would each of these be acceptable forms of proof for VDSS? Is there any other acceptable form of proof? Is a well-written narrative on the Statement of Intent sufficient?

This is not a new initiative. The Code has always required that the center operate under the auspices of a religious institution. There are a range of acceptable ways to document “Under the auspices” appropriately. Materials submitted to describe the relationship between the church and the childcare center will vary. The examples you provide are among those would be considered acceptable, including a well-written narrative.

5. Regarding the June 1 Date Cited in the Memo

Does this mean that all centers must submit the new documents by June 1, regardless of their renewal date? Or does it mean that a center whose renewal date is prior to June 1 should use the current documents, and a center whose renewal date is June 1 or later must use the new documents?

Beginning June 1, 2019, all providers will begin using the new documents and procedures as they come up for renewal. RECDC programs up for recertification prior to June 1, 2019 may follow the current procedure or the new procedure. VDSS will review and certify RECDC's submitting documents under either process through May 31, 2019. RECDC programs whose anniversary dates fall on June 1, 2019 and after must use the new documents as they submit their annual documentation for maintaining their exemption.

6. Regarding the Requirement to Supply Evidence of Religious Exempt Status

According to IRS Publication 1828, page 2, "Churches that meet the requirements of IRC Section 501(c)(3) are automatically considered tax exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS." Because of this provision, it is very common for a church and its related ministries to have no documentary proof of 501(c)(3) status. Therefore, should not the documentation offered as proof of having met the "Under the Auspices" standard suffice as proof of having met this standard as well?

You are correct regarding the information in IRS Publication 1828. The entity pursuing exemption is responsible for indicating how they are a nonprofit religious institution in accordance with IRC Section 501(c)(3) of 1954, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation. Because there are many types of religious institutions that vary from the traditional church setting, the information will be reviewed on a case by case basis.

7. Regarding the Staff-Child Ratio Information Sheet?

When will the Staff-Child Ratio Information Sheet be updated to reflect the upcoming changes required by SB 539 from the 2018 legislative session?

The Staff-Child Ratio Information sheet will be updated prior to the effective date of July 1, 2019. A memo explaining future Code changes will be sent and posted on the VDSS webpage.

Please let me know if further clarification is needed.