



Old Dominion Association of Church Schools

ODACS Position on HB 1012, SB 578, and SB 599

January 18, 2020

ODACS Opposes HB 1012 and SB 578

ODACS Supports SB 599

HB 1012 and SB 578 propose a major shift in Virginia's childcare policy. The bills would move purview of all childcare from the Department of Social Services to the Department of Education. In the process of doing so, the bills dramatically expand government authority over early childhood care and education from birth to age 5.

ODACS ministries have at the core of their purpose the academic, physical, social, and spiritual development and well-being of children (Luke 2:52). We believe that God gives children to parents and that He delegates to parents the primary responsibility for the proper rearing of their children (Psalm 127). The very best environment in which a small child can grow and thrive is a loving home with that child's own father and mother who love each other, who love the child, and who take seriously the parenting responsibility delegated to them by God. No daycare or school, either public or private, can have as deep an impact on a child's development as does the child's own home. However, daycares and schools exist to help parents with the care and training of their children since parents cannot be with their children all the time.

Furthermore, to understand ODACS perspectives on various childcare policy proposals, it must be understood that ODACS always examines such proposals through the lens of Separation of Church and State. ODACS daycares and preschools are ministries of local Independent Baptist churches. ODACS ministries actively supported Virginia's Religious Exemption from childcare licensure when it was first passed into law in 1979. Several ODACS ministries were named as defendants in the legal challenge to the Religious Exemption, which finally ended in 1988 when the United State Court of Appeals for the Fourth Circuit found that the law is not unconstitutional, the United State Supreme Court subsequently declining to hear the case.¹ The Religious Exemption from childcare licensure is the first in Virginia Code because among the licensure exemptions it has the deepest roots both historically and legally. ODACS therefore earnestly guards the Religious Exemption and defends it from proposals that we believe would move it in the direction of licensure or of licensure-in-effect.

Why ODACS Opposes HB 1012 and SB 578

1. The Concept of a "Unified Public-Private System for Early Childhood Care and Development"

When proponents of the childcare policy shift lament the "fragmented" system of early childhood care and development, we would simply replace the word *fragmented* with the word *diverse*. We are skeptical that the system needs to be "unified" in order for there to be quality.

Furthermore, does Virginia seek to establish in time a unified public-private system for K-12 education? Would not the establishment of such a unified public-private early childhood system under the Department of Education lay the foundation for a similar system for K-12 education in the future? Are we not justified in our concerns that the proposed policy shift could set the stage for future erosion of academic and religious freedom for private K-12 schools?

2. The Establishment of Aligned Learning Standards for Birth to Age 5

The Virginia Department of Education and the Virginia State Board of Education have worked very hard to establish and to implement the Standards of Learning for K-12 public schools. Under the current model,

the SOL's are legally binding upon public schools only, and private schools are not allowed to administer SOL tests even as a means of comparison.

By contrast, HB 1012 and SB 578 would establish learning standards, *beginning at birth*, which would immediately become legally binding on many private and religious daycares and preschools. Nobody currently knows what those standards will look like. Childcare centers that choose not to participate would be subjected to increasing pressure to abandon their autonomy.

Is it really necessary for the state to begin to micromanage the upbringing of our youngest children in this way? Would not the establishment and implementation of such early childhood learning standards set the stage for the future imposition of the SOL's on private and religious K-12 schools?

3. The Proximity in Time to the Implementation of SB 539 from the 2018 General Assembly

In 2018, the General Assembly passed SB 539, which proposed a major restructuring of Virginia's childcare licensure exemption code sections, §63.2-1715, §63.2-1716, and §63.2-1717. ODACS was very involved in negotiating the details of the bill. Implementation of the bill was delayed until July 1, 2019. For the past six months, both the Department of Social Services and license exempt childcare centers have been becoming accustomed to the new structure and requirements. There have been some bumps in the road, but we are working diligently with VDSS on those issues. A significant amount of additional time is needed before the results of the implementation of SB 539 become clear. The proposed major policy shift, with its new requirements and new departmental oversight, would only serve to increase confusion rather than serve to help us to settle into a new model for licensure exemption.

4. Other Reasons

There are several other reasons for our position, which we will not discuss in detail in this position statement. These include the lack of representation for certified preschools on the proposed Early Childhood Care and Education Advisory Committee, the lack of a fiscal impact statement, and the creation of a quality ratings system which is presented as if it will be objective but which in time could easily be used as a means for the state to establish curriculum controls and hiring controls for private and religious daycares and preschools.

Additionally, we believe it is important to remind the General Assembly of our contention that Religiously Exempt childcare centers are among the safest in the state, and that they may indeed be the safest. To support this claim, we ask that the General Assembly examine the data gleaned from VDSS reports of founded cases of child abuse that occur in out-of-family settings. Our examination of the data found that in a recent 5-year period, a founded case of child abuse, while rare in both licensed and Religiously Exempt settings, was nearly 5 times less likely to occur in a Religiously Exempt center as it was to occur in a licensed center.^{2 3}

Why ODACS Supports SB 599

- 1. It slows down the rush to create a new system for early childhood care and education in Virginia, the details of which are still very uncertain.**
- 2. It brings voices to the discussion surrounding the proposal which to date have been excluded from that discussion, including Religiously Exempt centers that do not accept taxpayer subsidies (§63.2-1716), certified preschools (§63.2-1717), and the Virginia Department of Social Services.**

Since HB 1012 and SB 578 are omnibus bills, this position statement cannot possibly address every detail that might be of concern to ODACS. Nevertheless, we appreciate the General Assembly's attention to and consideration of our concerns.

¹ <https://law.justia.com/cases/federal/appellate-courts/F2/846/260/397215/>

² <http://vaodacs.com/assets/Uploads/PDF-Files/Childcare/Virginia-Child-Abuse-Safety-Gap.pdf>

³ <http://vaodacs.com/assets/Uploads/PDF-Files/Childcare/VCPS-Investigations-Summary-2009-2014.pdf>