

MEMORANDUM

DATE: April 24, 2009

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell
Chairperson
State Council for Persons with Disabilities

RE: S.B. 10 [Licensing of After School Programs]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 10 which is designed to exempt after-school programs operated by private entities in public schools from Office of Child Care Licensing. SCPD opposes the proposed legislation and has the following observations.

As background, current statutory law contemplates licensing of all child care agencies, including day-care providers. See Title 31 Del.C. §342. In implementation of that statute, the Office of Child Care Licensing (OCCL) adopted a comprehensive set of day care regulations in 2006 codified at 9 DE Admin Code Part 101. Section 3.2 of those regulations explicitly requires the licensing of privately-run school-age centers located within public schools. Indeed, the SCPD promoted the licensing of even district-operated day care programs. See attached excerpt from SCPD 8/30/06 memo to the OCCL, pp. 1-2. This bill would bar the OCCL from requiring a license to operate an after-care program in a public school with the following unfortunate results.

First, consistent with the attached excerpt from a Department of Services for Children, Youth & Their Families (DSCYF) publication, eliminating licensure bars the DSCYF from investigating child abuse and neglect by the provider. The only basis for DSCYF&F abuse/neglect jurisdiction is the license. The bill therefore “guts” an important source of protection for children.

Second, the licensing regulations affirmatively enhance the well-being of children. They ensure adequate staffing by qualified personnel, reporting of abuse/neglect, first aid and CPR training, food safety, application of health protocols for children presenting with illnesses, medication administration standards, and adherence to environmental safety standards. This bill would essentially eliminate all of these protections since the provider would be excluded from licensing

requirements.

Third, if a provider deems some specific aspect of the regulations to be unduly burdensome, it can request the OCCL to grant a variance. See 9 DE Admin Code §101, Par. 14.0. This would result in waiver of some discrete requirements while not eliminating application of the regulations on a wholesale basis.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position on the proposed legislation.

cc: The Honorable Jack Markell
Mr. Brian Hartman, Esq.
Ms. Susan K. Haberstroh
Office of Child Care Licensing
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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