

Dorris, Amanda K. (PW)

2854

14-519-43

From: Ted Clater [tclater@kcea.com]
Sent: Monday, July 26, 2010 4:48 PM
To: Dorris, Amanda K. (PW)
Cc: 'Totino, Michaele'
Subject: Regulation ID# 14-519 (IRRC# 2854)
Attachments: 2010 DPW 14-519 Church Joint Comment.pdf

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2010 JUL 29 P 1:48

Dear Ms. Dorris:

Attached you find comments from diverse church groupings who address proposed Regulation 14-519. If you have any questions, feel free to contact me.

Rev. Theodore E. Clater, Pd.D.
Keystone Christian Education Association
6101 Bell Road
Harrisburg, PA 17111
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JOINT COMMENT FROM

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AMERICAN COUNCIL OF CHRISTIAN CHURCHES (INCLUDING: BIBLE PRESBYTERIAN CHURCH, EVANGELICAL METHODIST CHURCH, FELLOWSHIP OF FUNDAMENTAL BIBLE CHURCHES, FREE PRESBYTERIAN CHURCH OF NORTH AMERICA, FUNDAMENTAL METHODIST CHURCH, INDEPENDENT BAPTIST FELLOWSHIP OF NORTH AMERICA, INDEPENDENT CHURCHES AFFILIATED, AND DIVERSE UNAFFILIATED INDEPENDENT CHURCHES), ASSOCIATION OF INDEPENDENT BAPTIST CHURCHES OF WESTERN PENNSYLVANIA, BAPTIST BIBLE FELLOWSHIP, CENTRAL PENNSYLVANIA FUNDAMENTAL PASTORS ASSOCIATION, EVANGELICAL CONGREGATIONAL CHURCH, FUNDAMENTAL BAPTIST FELLOWSHIP, HARRISBURG AREA INDEPENDENT BAPTIST PASTORS FELLOWSHIP, INDEPENDENT FUNDAMENTAL PASTORS OF NORTH CENTRAL PENNSYLVANIA, INTERCHURCH HOLINESS CONVENTION (INCLUDING: ALLEGHENY WESLEYAN METHODIST CHURCH, BIBLE METHODIST CHURCH, BIBLE MISSIONARY CHURCH, BRETHREN IN CHRIST CHURCH, EVANGELICAL BRETHREN CHURCH, EVANGELICAL WESLEYAN CHURCH, GOD'S MISSIONARY, CHURCH PILGRIM HOLINESS CHURCH, THE CHURCH OF CHRIST OF CHRISTIAN UNION, THE CHURCH OF GOD HOLINESS, THE EVANGELICAL METHODIST CHURCH, WESLEYAN HOLINESS CHURCH, AND DIVERSE UNAFFILIATED INDEPENDENT CHURCHES), KEYSTONE CHRISTIAN EDUCATION ASSOCIATION, PASTORS FELLOWSHIP OF NORTH EASTERN PENNSYLVANIA, and PENNSYLVANIA ASSOCIATION OF REGULAR BAPTIST CHURCHES

**AS ECCLESIASTICAL GROUPINGS
REPRESENTING THE CONCERNS OF SOME 900-950
PENNSYLVANIA CHURCH CONGREGATIONS,
INCLUDING THEIR MANY AND DIVERSE SPONSORED MINISTRIES
TO THE FAMILIES AND THE CHILDREN
OF THE COMMONWEALTH OF PENNSYLVANIA,**

CONCERNING

PROPOSED RULEMAKING FOR

REGULATION 14-519

ATTRIBUTES

The ecclesiastical bodies that provide this comment are diverse in many ways, including in their positions of some doctrines and in their church polity. While they may choose not to engage in joint efforts of spiritual endeavor, being convinced of the need to perpetuate their faith as commanded in the Scriptures, they practice historic tolerance toward each other, allowing each other the right to hold and practice their faith without compromise.

We as congregations are each a community of individuals and families; and, at the same time, we are part of our geographic and cultural communities. We as congregations have a long-standing reputation of good citizenship; but, even more importantly for the instant proposed regulations, we have a reputation of success in child rearing and education, and we have a history of accomplishing this without governmental mandates or oversight of our training procedures. Among other things, the incidences of school drop-out, incarceration, and welfare dependence are quite low. High percentages of our children succeed in college and grad school, in business, and in military careers. High numbers of families in our communities indicate that they would prefer for their students to be enrolled in our religious PreK, elementary, and high schools instead of public and other secular schools but are hindered from doing so by lack of finances. These schools also function without government control over vital areas as enacted in Section 1327 of the School Code of 1949 wherein it reads:

“...It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the education and training for such child. Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content, faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school...”

Attendance at these religious schools, even without government control of staff training and other forms of government oversight, satisfies the Compulsory Attendance laws. Clearly, Pennsylvania has a Compulsory Attendance law, not a Compulsory Education law; and the difference between those is very important. While our institutions have this important independence from government-imposed definitions of achievement or quality, our students do well. As citizens, they are eligible for a full range of government programs available for all students.

Studies continue to indicate that whenever parents seek or need help, their preference is to enlist assistance from family and/or a church or religious body. The very nature of and structure of religious work is strikingly different from what is experienced under government programs and similar. With few exceptions, families choose to enlist the assistance of religious ministries, to partner with them. The success of this historical pattern demonstrates that there is no benefit in we as congregations providing our staffs with additional government training.

As congregations, we have a long history of study beyond the Sacred Writings. While our congregations are made up of individuals with various abilities and educational backgrounds, we have numerous individuals with bachelor, master, and doctorate degrees and are not ignorant of the differences between secular thought and biblical thought.

HEALTH & SAFETY

In addition to other departments, by law the Department has some responsibility in matters of health and safety of children. The Department asserts authority over any groups of children age 15 and below when the parents of those children are not present and when care is not provided by relatives except when care is during a worship service in a place of worship or during instructional hours at a school.

At the same time, as anyone can observe, as society changes and as situations arise, local congregations historically get very creative in developing programs and activities designed to fulfill their religious mission, including ministries with children such as schools, clubs, retreats, recreation, study groups, camps, etc., plus many venues where one or more parents care for groups of children while other parents participate in an adult activity, whether a day out, work, a banquet, etc. Thus, for any congregation, in any given week, there could be multiple activities where the Department could assert authority. However, to this point in time, internal Department policy has determined that the authority of the Department would be implemented only for "formal" child care and latchkey programs.

DANGERS

We recognize that diverse specialists within civil authority have responsibility for all citizens, including children, in a church ministry environment just as they have responsibility for those citizens in a non-church environment. This includes, but is not limited to: Police (a variety of crimes), Labor & Industry (safe building occupancy), Transportation (vehicle standards and drivers licenses), Education (compulsory attendance), Health (communicable disease), Agriculture (food handling), and Environmental Resources (water testing and sewage), etc. While we honor civil government for performing proper functions necessary for social order, conflict would be inevitable if civil servants departed from their historic functions to embrace new functions. Examples:

- if police officers patrolled the streets to enforce a standard of acceptable music in cars by excluded the playing of hymns and Gospel songs,
- if L&I demanded that all church buildings had to make provision for accommodating citizens engaged in illicit sex,
- if church busses were required to carry advertisements for the liquor industry,
- if education laws required instruction of spiritually objectionable materials at religious schools, etc.

Conflict would also be expected if civil servants departed from their historic functions to require obedience to laws or regulations that could violate the faith if implemented in offensive ways. Examples:

- if police officers were empowered to enforce an ordinance that prohibited driving during activities that authorities deemed to be a waste of time and resources,
- if L&I staff were empowered to approve only building designs that they considered appropriate for a church use,
- if advertising on all busses were required and the Transportation Secretary determined what each bus would display,
- if Education officials required religious schools to agree to teach only whatever content was determined by the Board, etc.

The event that draws us together to make a joint comment is the proposal by the Pennsylvania Department of Public Welfare. We see no alternative but to interpret the instant proposed rulemaking as a real and significant danger to the societal practices and the historic spiritual beliefs that each of these groups and congregations holds. This proposal is just as threatening to the practice of our faith as the four hypothetical illustrations listed in the previous paragraph.

Our local churches have a rich history of loyalty to the laws of the United States, Pennsylvania, and its subdivisions. Patriotism and civil obedience are historically strong. Our local churches obey the Scriptures for believers are instructed to "obey every ordinance of man..." until those violate the commands of our God. We are very willing to use the provisions of the Constitution to protect the rights that are recognized there, and we are thankful for the historical recognition that there are inalienable rights. We are also very willing to use the voice of the voters to influence the decisions of our office holders.

COMMENTS

Having established that groundwork, the following are specific comments about the proposed rulemaking:

It cannot be missed that there is a Pennsylvania court case on appeal that addresses the issues of government licensing and control of religious programs to children beyond matters of health and safety. The content of these proposed regulations serves as good illustration of why there is a court case. During the time of this appeal, it is quite imprudent for DPW to proceed with continuing and expanding claims of authority over the religious activities of religious institutions. Nevertheless, even without a case on appeal, this proposal begs for legal action.

The Department has been very careful through the years to withdraw proposed regulations and to withhold enforcement of existing regulations when personnel sensed the Legislature was moving too aggressively to pass laws to protect religious institutions.

Similarly, the instant rulemaking has been put forward during a time when it is most unusual for legislative oversight committees to devote quality time to consider actions of the Department. We clearly reserve the right to move legislation if the situation merits.

If the Department were to restrict its licensing and supervisory activities to purely health and safety matters as is accomplished by the Department of Transportation, Department of Agriculture, Department of Environmental Resources, and others, the religious community would not be concerned about its ability to fulfill its mission.

While the "Purpose of Proposed Rulemaking" text initially articulates that the proposed expansion of training for all who work with children relates to their "health, safety, and rights," the body of the materials says otherwise. The body is an attempt to establish "professional development" in far-reaching areas beyond health and safety. There is little in this proposal that relates to making kids safer.

It has been observed that the Department is strongly lobbied by some interests to impose a one-size-fits-all regulatory policy that micromanages all institutions in matters far afield of health and safety in an attempt to require "quality care." But a definition of "quality" lacks a consensus, what it is, or how to "get it." This is common knowledge in education policymaking. Any attempt by government to impose a standard of "quality" becomes political with definitions and expectations that change based upon who can influence power brokers.

It is well established that governmental departments require training and/or testing of all key staff in important areas of health and safety. This includes important areas such as maintenance of well water treatment systems, asbestos in buildings, and school bus drivers. We cannot think of any precedence for government-imposed training and/or testing for clergy and their staff to assure that their teaching ministries (or any other of their functions) exhibit "quality." Parenthetically, the School Code clearly does not require religious school administrators and teachers to undergo government supervision of their training.

The history of the Department and the text of the proposed rulemaking are intent on utilizing the accreditation standards of the NAEYC and similar to impose a philosophy of life, religion, and governance on all children's institutions. Yet, some of the standards of these entities run counter to the philosophy of life and beliefs of long-established religions.

Any attempt to impose a standard of "quality" in church ministries is a departure from the historic function of government to protect one and all equally in matters of health and safety while remaining neutral in matters of religion. If such an imposition is allowed relative to children, it is a natural question as to when government will attempt to impose a standard of "quality" in church ministries to adults.

While every individual who works with children should be familiar with subjects such as fire prevention and emergency drills of diverse types, of pediatric first aid, of water safety, and similar, there is an absence of citations as to how many annual hours of training this really requires.

Apart from the official ministries of churches with children, we raise a point on behalf of our parishioners who regularly assist each other by providing oversight of each other's children in their homes. These families typically know each other and trust each other to provide the same degree and type of care that they would give to their own children if they were present. They envision this as a team effort – a true partnership. Some of our parishioners are also enlisted by neighbors and friends who are outside their congregation. The rulemaking and the auxiliary documents do not point to any research that demonstrates that this old-fashioned concept of mutual assistance endangers the health and safety of the children, and that is true no matter if one names the arrangement “babysitting” or “family day care.” Obviously, this is an arrangement for “child care” that is very sought after because of its desirable, trusting relationship between the adults and the children; but it is also viewed as competition to commercial enterprises. In many cases, it is strikingly similar to historic Montessori methodology.

The Department's referenced document, “Pennsylvania Keys to Professional Development System” includes a strong emphasis that all workers with children are part of a profession and should demonstrate professional traits. It is observable that one of the requirements includes advocacy, presumably advocacy for the Department's perspective of how to raise and teach children. We cannot think of any profession where such advocacy is not only part of the “facts” to be mastered in order to qualify for work, but that *participation* in advocacy is required.

While the fiscal note identifies that there is no fiscal impact under the proposed rulemaking, this defies logic. If the Department increases the requirements for each site with children, there are going to be increased personnel costs for the Department, both in the office and in the field.

SUMMARY

We as Pennsylvania congregations believe the proposed rulemaking does not enhance health and safety. Furthermore, it endangers the legitimate diversity that is historically expected in the Commonwealth, the land of Penn's Woods where religious freedom took root. This rulemaking should not move forward.