

Connecticut After School Network

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**Testimony to the Public Health Committee
In Support of HB 5758 with recommended changes
Submitted by Michelle Doucette Cunningham, Executive Director
Connecticut After School Network
February 21, 2007**

Good evening, Senator Handley, Representative Sayers, and members of the Public Health Committee. My name is Michelle Doucette Cunningham, and I am the Executive Director of the Connecticut After School Network, a statewide alliance representing parents and providers across the state. The Network's goal is to have high quality, affordable after school programs available to every Connecticut child and youth so that they grow up safe, healthy, educated, connected and employable.

More importantly, I am the mother of a seven year old daughter, who attends Bowers School in Manchester. I am here today, not only on behalf of the After School Network but also on behalf of all working parents with school age children, to testify on House Bill 5758, An Act Eliminating Discrepancies in Regulations Governing Use of School Facilities.

Let me begin by prefacing my remarks with my strong support for the need for state regulation of child care centers. Both as a parent and as someone who works closely with after school providers, safety regulations are essential. Regulations set the foundation of basic quality for these facilities, and parents depend on the state to ensure that the schools, child care centers, summer camps and other community institutions that serve our families are healthy and safe places.

That said, however, as a professional who is very familiar with these regulations and their impact on after school programs, I am here to testify that some of the inconsistencies in current regulations undermine quality and accessibility by making the regulations so unreasonable and expensive to implement, for those programs that are not exempt, that programs are discouraged from opening, do not become licensed, or take steps to become exempt from the regulations altogether.

I should note for those of you who may be unfamiliar with the details of child care licensing, that most school-age programs (that is, those that are not exempt) are subject to the same regulations as preschool programs, and covers 31 legal-sized pages covering program administration, staff requirements, record keeping, health and safety, physical plant, and educational requirements. The Department of Public Health recognizes the need for some school-age specific regulations, and we have just begun a process working with the Department's Child Day Care Licensing Unit to review existing regulations and recommend changes. Based on the experience of the previous

Making the Connections for After School

The Network operates in partnership with CSACA - Connecticut's after school professional organization.

workgroup that has just completed recommendations regarding health and safety recommendations in the child care regulations, we expect this process to take a minimum of two years before any school-age specific changes to regulations would be ready for approval by the Legislature.

In the meantime, I think there are a number of “common sense” provisions that need to be addressed in law, that can’t wait the two years. There are three areas in particular that need to be addressed 1) which programs are exempt from licensing, 2) licensing requirements for school buildings, and 3) maximum group size.

- 1) Clarify which programs are exempt:** Currently Connecticut General Statutes §19a-77 exempts from child care licensing programs that are:
- a. administered by a public or accredited private school,
 - b. administered by a municipal agency or department and located in a public school building,
 - c. informal arrangements among neighbors or relatives in their own homes,
 - d. drop in care where parents are on-site (such as gyms, GED classes, or shopping),
 - e. religious educational activities administered by a religious institution exclusively for children whose parents or guardians are members, or
 - f. recreation operations such as but not limited to creative art studios for children that offer parent-child recreational programs and classes in music, dance, drama and art that are no longer than two hours in length, library programs, boys' and girls' clubs, church-related activities, scouting, camping or community-youth programs.

While I could easily use up all my allotted time discussing the inequities created by having some programs required to be licensed while others are not, I will leave that conversation for another day. Let it suffice to say that many programs are confused by the language of the final clause regarding “recreation operations.” The vast majority of after school programs, whether they meet for an hour a week or fifteen hours a week, have significant recreation components, combined with other educational and enrichment activities – these activities are not exclusively one or the other. For example, if you have fifteen children playing basketball, making up three teams of five, and the third team keeps score and free throw percentages on the sidelines while the other two are playing, is that educational enrichment or recreation? Also, if a program is run by a library, boys’ and girls’ club, church or community-based agency and contains a significant recreation component is it exempt? What if it also includes some educational component, such as homework help? Also testifying today is OPMAD, Organized Parents Make A Difference, a Hartford after school program whose story will exemplify the difficulties faced by providers in regards to interpreting this language, and I am attaching a New Haven Register article from October 2006 that tells the story of another inner-city program that was trying to do the right thing for the community and had a lengthy court battle to allow it to continue.

The result of this wording is that after school programs are eliminating their homework help component, so that they can be exempt from licensing as a “purely recreational” program. I have heard from other providers that are currently unlicensed because they can not afford the staffing cost of implementing a licensed program, and still others that

would like to open programs but are discouraged by the thought of having to meet all 31 legal pages of the current regulations. I think we can all agree that this doesn't make sense, and that we need to find a compromise that balances the need for creating a basic level of health and safety oversight for programs that serve children a few hours a day and need to have more programs that serve children. **Recommendation: Amend the language of HB 5758 to require all programs that meet for more than two hours a week to become licensed, and create a grandfather clause allowing programs already in operation to become licensed within two years without imposing financial penalties.**

- 2) **Use of school buildings:** Many programs, reading these regulations, assume that they are exempt if they are located in a school, which only happens with the school's permission, which is not the case. The Department of Public Health requires programs that are located in schools but run by community-based programs, such as YMCAs to license their programs, very often requiring substantial changes to the building, such as covers on the lights in the cafeteria, additional lighting, screens on windows, etc. **If the school building is safe enough for the children to be in during the school day, it should be safe enough for the three hours after school for any program**, and should not need to make any changes to meet child day care licensing. There are many reasons why a school system would be hesitant to administer a program, although they may be supportive in every other way and actually invite the programs into their buildings. The result is that more programs are choosing not to license their programs, thus undermining quality, instead of improving it. **Recommendation: Amend the language of HB5758 to exclude all programs that are held in public or private school buildings from 19a-79-7a, the physical plant portion of the child day care regulations.**
- 3) **Group size:** Current regulations limit the size of an entire group of students that can participate in a single activity to a total of twenty, no matter how many adults are present. This is different than the ratio of one adult to every ten students, which we agree with. The total group size rule is necessary for programs serving young children, but for school age children, it creates problems with serving the children snack at the same time, bringing in special enrichment activities where the youth could all be in the audience at the same time, and special projects such as putting on a theater production in which all the children in the after school program could participate. **Recommendation: Amend the language of HB 5758 to eliminate the group size requirement for school age child care programs.**

Programs serving school-age children are essentially different than full-day care of infants, toddlers and preschoolers, and the regulations need to address this difference. I believe that Connecticut is on the path to creating a system of regulation that makes sense for the different needs of children of different ages, and I hope that this legislation will be the first step on the way forward on that path.

NewHavenRegister.com

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Church's after-school program fights to stay open

Randall Beach, Register Staff

-NEW HAVEN — On a recent weekday afternoon, Arndra Hatcher sat in a large room at the Episcopal Church of St. Paul and St. James, helping a child with her homework as two others played at the table. It seemed like innocent activity nobody could find objectionable. But this after-school program has drawn the attention of state health officials, who say it is illegal and that the church needs a day-care license. They threatened to impose a fine of \$10,000.

Although the church in August won a legal round in Superior Court, the state is appealing that decision. If the ruling is overturned, church representatives say the Mustardseed Afternoon Club might have to close because it would be too expensive to operate as a licensed day-care center. Advertisement

The case has broad implications in a time when more working parents are turning to churches to provide social services, including offering safe places for their kids after school.

"If the state's position is upheld, all of these fill-in programs for latchkey kids — so they won't be out in the streets unsupervised — would be discontinued," said attorney Frank Cochran, a St. Paul and St. James member who is representing the church for free.

But state Attorney General Richard Blumenthal said, "The state Department of Public Health is saying there needs to be licensing and oversight."

Blumenthal said if the state loses its case, "There would be severe practical ramifications. It would add a large loophole in the law for other programs." He said this could "undermine the protection of children."

The state regulations cover fire, health and safety protection. But the church's representatives note they already comply with detailed city fire, building, health and safety regulations, and the premises are regularly inspected.

Blumenthal said he wants to work out a solution that enables Mustardseed and what he called its "very worthwhile activities," to continue.

Nevertheless, the possibility Mustardseed might close is upsetting to the kids, their parents and the program's staff.

"There aren't enough after-school programs for kids in this area," said Hatcher, Mustardseed's program assistant. "These kids are reading better, just by us reinforcing what the teachers show them at their schools."

"Why would them doing their homework be such a huge deal?" Hatcher asked. "I don't understand it."

The program, which opened in January 2000 to serve neighborhood children (an affiliation with the church is not necessary), is described by its staff as a recreational program for about 25 kids in kindergarten through grade 5 and a few older youths. Most families pay \$50 to \$100 per month.

The activities include free indoor and outdoor play, snacks, reading aloud, homework time, singing, crafts, games and trips to parks and museums.

The church's children's missionary, Gretchen Wolff Pritchard, said church representatives did not apply for a state day-care license because a stand-alone after-school program operated by a church is covered by exemptions in state law.

Pritchard cited the exemptions, which include "recreational operations such as, but not limited to, church-related activities or community youth programs."

For more than three years, the program operated without any interference or problems. But, in the fall of 2003, several Mustardseed families asked the program's staff to register them with Care4Kids, which provides state child-care vouchers for low-income working parents.

When Care4Kids officials reported this to the health department, its officials began to check into Mustardseed.

When a health department worker came to the church, she said to Pritchard, "Describe your program and why you think it's exempt."

"I told her, 'Because it's church-related and operated by a church,'" Pritchard recalled. "The mistake I made was to write it up as an excellent, thorough enrichment program. This came back to haunt me. ...

"I fell into a well-intentioned trap," she said, "by describing how we use books and help kids with homework. This was thrown back at us, that we are offering an educational program."

Pritchard added, "The state says if you offer help with homework or reading out loud or do field trips to museums, it's 'educational' and that makes you a day-care center."

But, she noted Superior Court Judge Jonathan Silbert ruled education and recreation are not mutually exclusive.

Silbert's ruling followed a decision by a health department hearing officer that Mustardseed was in fact a child day-care center requiring a state license. The officer declared the program illegal, but reduced the fine from the proposed \$10,000 to \$3,500.

Silbert noted in his ruling the Mustardseed kids do homework mostly on their own rather than waiting to do it at home at night. He wrote, "Mustardseed is a program that provides 'refreshment of one's mind or body after school through some activity that amuses or stimulates.' It is therefore a recreational operation that is exempt from licensure by statute."

Pritchard said if Silbert's ruling is overturned on appeal and Mustardseed required to obtain a day-care license, a more qualified teacher would be needed, at a higher cost to the church of about \$10,000 per year. She said Hatcher would lose her job.

Noting the church's officials have already spent \$13,000 on physical upgrades for the program, Pritchard said they could not afford the additional annual \$10,000.

Jacqueline Edge, who has two kids at Mustardseed, including one who has been there for six years, said, "I feel comfortable leaving them there. I just love 'em (the staff)."

When asked about the state's argument, Edge said, "Kids need somewhere to go. It's wonderful for them. I wish they (state officials) would just cut them some slack."

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State pulls appeal over church program

Randall Beach , Register Staff

-NEW HAVEN — State Attorney General Richard Blumenthal Monday announced he has decided to withdraw a legal appeal against the Episcopal Church of St. Paul and St. James, which operates an after-school program that had come under state scrutiny.

Blumenthal's announcement came on the same day a story in the New Haven Register revealed the church's program could have closed if the state had won its appeal.

But in an interview Monday, Blumenthal said he and his staff had decided to drop the appeal a week or so earlier, after an initial interview with the Register and after further examination of the state law concerning how the state oversees day care centers. Advertisement

"Praise the Lord!" exulted Gretchen Wolff Pritchard, children's missionary of the church.

The New Haven church has operated the Mustardseed Afternoon Club since January 2000. About 25 kids use the program.

Activities include indoor and outdoor play, snacks, reading aloud, homework time, singing, crafts, games and field trips. Most families pay \$50-100 per month, with the church picking up most of the cost.

It was the homework that drew the attention of the state Department of Public Health. Those officials concluded the church was operating an "educational" program and needed a day care license. DPH threatened to impose a fine of \$10,000.

But church officials said an after-school program operated by a church is covered by exemptions in state law, including "recreational operations such as, but not limited to, church-related activities or community youth programs."

Pritchard said a day care license would require them to hire a more qualified teacher, at a higher, unaffordable cost to the church of about \$10,000 annually.

After a DPH hearing officer upheld the DPH position, the church went to court. Superior Court Judge Jonathan Silbert in New Haven ruled in the church's favor, concluding education and recreation are not mutually exclusive.

Silbert ruled Mustardseed is "a recreational operation that is exempt from licensure by statute."

During his first interview with the Register, Blumenthal said if the state lost this case, "There would be severe practical ramifications. It would add a large loophole in the law for other programs." He said this could "undermine the protection of children."

Asked Monday why he had changed his position, Blumenthal said he and his staff studied the issue "and determined the (state) statute is unclear and inadequate to take action that would have the effect of shutting down this worthwhile program."

In a written statement Monday, Blumenthal said, "an appeal would be inappropriate and unwise."

He said the General Assembly might need to review the statute governing oversight of day care centers.

Blumenthal also said the statute "should be interpreted with sympathy and support for meaningful and enriching after-school programs."

Pritchard responded, "We're very pleased they've decided to interpret the regulations in a way that is sympathetic to programs such as ours."

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