

OVERVIEW OF JUNE 3, 2016 ATTORNEY GENERAL ADVISORY OPINION ON EARLY CHILDHOOD TEACHER LICENSURE & USE OF LOTTERY FUNDS FOR VIRGINIA PRESCHOOL INITIATIVE

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TWO ISSUES PRESENTED

➤ **APPLICABILITY OF VIRGINIA DEPARTMENT OF EDUCATION (VDOE) LICENSURE REQUIREMENTS TO PRESCHOOL TEACHERS IN PRIVATE CHILD CARE FACILITIES**

➤ **USE OF LOTTERY FUNDS TO HELP FUND THE VIRGINIA PRESCHOOL INITIATIVE (VPI)**



QUESTION ONE:

**WHETHER EARLY CHILDHOOD
TEACHERS IN PRIVATE CHILD
CARE FACILITIES MUST BE
LICENSED AS TEACHERS BY
THE VIRGINIA DEPARTMENT OF
EDUCATION**



• **CODE OF VIRGINIA § 22.1-299**

- “No teacher shall be ... paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education...In accordance with regulations prescribed by the Board, a person not meeting the requirements for a license or provisionsl alicense may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.”

• **8 VAC 20-440-10 Regulations Governing the Employment of Professional Personnel (Definitions)**

- ”Teacher’ means a person ...who is regularly employed full time as a teacher, visiting teacher/school social worker, guidance counselor, or librarian, and (ii) who hold a valid teaching license.”

• **8 VAC 20-22-40(A) Conditions for Licensure**

- “Applicants for licensure must ... [h]ave earned a baccalaureate degree from a regionally accredited institution of higher education...”
- **NOTE:** The Virginia State Board of Education has not issued regulations requiring licensure for teachers at private preschool facilities.

OFFICIAL ADVISORY
OPINION
CODE OF VIRGINIA § 2.2-505

Whether Early Childhood Teachers
in Private Child Care Facilities Must
Be Licensed as Teachers by the
Virginia Department of Education



- So long as they are paid solely from private funds, early childhood teachers in private child care facilities are not required to have a teacher license.
- If they are paid from public funds, the *Code of Virginia* requires that they have a teacher license.

➤QUESTION TWO:

**WHETHER LOTTERY FUNDS
THAT ARE DISTRIBUTED TO
LOCALITIES MAY BE USED TO
HELP FUND THE VIRGINIA
PRESCHOOL INITIATIVE**



- **Constitution of Virginia Article VIII, § 10**
- “No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof; provided, first, that the General Assembly may, and the governing bodies of the several counties, cities and towns may, subject to such limitations as may be imposed by the General Assembly, appropriate funds for educational purposes which may be expended in furtherance of elementary, secondary, collegiate or graduate education of Virginia students in public and nonsectarian private schools and institutions of learning...”
- **Constitution of Virginia Article X, § 7-A**
- “The General Assembly shall establish the Lottery Proceeds Fund. The Fund shall consist of the net revenues of any lottery conducted by the Commonwealth. Lottery proceeds shall be appropriated from the Fund to the Commonwealth's counties, cities and towns, and the school divisions thereof, to be expended for the purposes of public education.”
- **Code of Virginia § 58.1-4022(D)**
- “...D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of the Constitution of Virginia. The additional appropriation of lottery revenues to local school divisions for public education purposes consistent with this provision shall be used for operating, capital outlay, or debt service expenses, as determined by the appropriation act...”

OFFICIAL ADVISORY
OPINION
CODE OF VIRGINIA § 2.2-505

Whether lottery funds that are distributed to localities may be used to help fund the Virginia Preschool Initiative



- Funding the Virginia Preschool Initiative with the Lottery Proceeds Fund is legally permissible because it is a form of public education.
- Lottery proceeds may only be used for the purpose of public education.
- Constitution recognizes that nonsectarian private schools and institutions of learning may perform educational purposes that may permissibly be supported by public funds.

THANK YOU.

Questions?

