

Comments from the Chair- Connie Merlet

We are here today because someone decided that of all the boards in the state this might be a good one to eliminate. A lot of the staff report is concerned with how many meetings we had, how many minutes and agendas were posted. I am not going to say these things are not important. As a member of DelCog I believe in open government. I am also not going to agree that the staff report is 100% correct. I have had no energy at all to go back and research which agendas I asked to be posted, which year something happened. I will openly admit at the outset that I did not make sure these things were done. However, the question to you today is really not whether we crossed our ts and dotted our is- that can be fixed, but whether our mission is no longer necessary.

What is our mission? We only have one- work with the OCCL when they are making new regulations. Why? So that we can continue to exist financially. This goes to our purpose and the reason for our existence.

What is a daycare anyway? You can call this Early Childhood Education if you want but you are fooling yourselves, and this is the crux of the problem. We exist for one reason only- to take care of children so that parents can go to work. In my nearly 40 years in childcare I have known maybe one or two children whose moms did not work. They don't come to us for an education. They come for care. I have never had a potential parent call and have as their first question- "what is your curriculum?" Never. It's "how much?" and "when can we start?"

I want to be very clear about the type of Board this is. We have perhaps the most unique Board in the state- no other board that I know of has a mission to actually push back against a state agency. So the Board is problematic in that state agencies find us a major hindrance. I fully understand why OCCL and other affiliated groups want to shut us down.

What are our regs? What do they mean? What happens with them or when they are not followed? We have 150 pages of regulations which change yearly. Every single regulation MUST be adhered to. If they are not, we are given citations which are posted on a public website and our license will not be issued until every citation is resolved. Every single regulation. Literally if I refused to put a covered trashcan in my classrooms OCCL should not give me a license.

Over the last few years there have been so many changes we can no longer keep up. I used to integrate the changes into the staff and parent handbooks Now I just add addendums with the year. I cannot afford to put out new books and people wouldn't know how to find them anyway.

We have also had multiple changes to the language in our regulations. Our regs are supposed to be written in language easily understood but some years we have had changes oversimplifying language that are common EC terms and other years massive legal type language changes, like shall, will, must. Very few providers understand the legality in the difference between those terms.

John has explained the bill that created us so I will not touch on anything he said. But I do want to express the fact that we have always fought an uphill battle. Excluded members of the EC community were FURIOUS that they were not allowed on the PAB board. It was very uncomfortable.

When PAB was formed we met as a group of 7 in Dover for the first time and the governor's assistant who oversaw boards facilitated the meeting. She did an overview of state boards and told us we needed to write bylaws and how we needed to run meetings. Of the seven of us I was the only one who had HEARD of Robert's Rules and no one had a clue how to write bylaws. As a non-profit my center has bylaws and Lydia said she would forward some examples from other state boards. I volunteered to try to put some together by the next meeting. I spent the next month combining and trying to simplify the bylaws I received, and bought a couple of books regarding meeting rules. At the next meeting we went over the bylaws I had put together, changed a couple of things and voted for officers. The group voted for me for chair and another member for secretary.

Around the same time the PAB was being formed then Governor Markell issued executive order 86, which said in effect that state agencies needed to simplify regulations for businesses that operated in the state of Delaware. This order was not intended primarily for daycare, but certainly we fell under its purview.

Thus began the first of many iterations of our regulations that PAB worked on.

Over the years PAB met regularly with a representative of OCCL and hashed through regulations. We basically started at the beginning of the book and went through every page. Back and forth, back and forth, PAB members and OCCL people, every regulation. There were three sets of regulations in the old days- Center Regs, Family Regs, Large Family regs. We always did Center Regs first and then Family. We rarely worked on Large Family, partly because they were so similar to Family but mostly because we just didn't have time. A few years ago Family and Large Family regs were combined.

There were about 80 pages in each manual when we first started (now more than 150 pages.) We met at 7 PM. This is the earliest that providers can meet in person, and even 7 is a struggle. Daycares are open from 7-6. It takes an hour plus to get from Wilmington to Dover, and providers cannot leave work until day is done. So we would meet pretty late into the night, often not finishing our meetings until 10:30, 11, when we would head home, and would then need to be at work early the next day, before our businesses opened. Providers, and especially family providers, have incredibly long days. Some months we would meet a couple of times, often we would divide up pages to shorten up our meeting times, but even then, we had to review everyone else's synopses, and when we hit certain regs, we might spend two hours just going over three or four pages. It was exhausting. Our agendas were always the same- Review regulations. The only time our agenda would ever change is when we would complete an entire review. Sometimes, but not always we would have a vote on it, often it was consensus. Or when we would schedule a public forum in each county.

When we completed a review we would schedule three forums so that we could show what we came up with to other providers. While our regular meetings are public, we didn't get a lot of providers at them (because they work so many hours already and getting to Dover was so hard) it didn't allow for a lot of providers to see what we were doing. The first couple of meetings were hard. Because we have always had to go through OCCL to advertise everything we do, many providers thought we were a branch of OCCL and came angry. Then also some of those who were not providers, but who thought they should be on the board anyway, had as much access to speak as providers and they would always use their three minutes to extensively praise everything OCCL was doing and say they believed everything OCCL did was correct. In a public forum this was obviously their right, but it took up precious minutes from listening to the ideas of stressed and overburdened providers.

Nevertheless, we scheduled county meetings as often as we could.

Over the years we worked hard to make regulations more practical for providers. We had a lot of major accomplishments. I'll name just a few-

PAB ACCOMPLISHMENT- What was NOT in the regs- our renewal applications. Changed three times one year in the month that I was being renewed. At one point I asked who was getting which application. This was resolved by a general assembly vote.

PAB ACCOMPLISHMENT- Sometimes the regulations have gone over the top as far as being reasonable. At one point we were supposed to have food on hand to replace lunches sent in by parents which were not nutritionally sufficient. This raised two concerns. First, many of our parents are from other countries and cultures. Honestly, there has been a lot of food brought in that this new England girl just does not identify, and I am not alone. More importantly, OCCL did not understand that while I, as a private provider could say to parents "This is not an appropriate lunch," the state cannot trample on parental rights. This was resolved by a general assembly vote.

PAB ACCOMPLISHMENT- At one point they were going to put in our regulations that breast milk could be swirled but not shaken, as shaking could break down the proteins. This went back and forth for months. Parents actually joked about it and moms "wondered" whether they should go jogging. As a provider who happens to have a daughter with a PhD in biology I was finally able to convince OCCL that this would be an embarrassment in our regs. This was finally resolved without a general assembly vote.

PAB ACCOMPLISHMENT- OCCL wanted children over the age of 1 to be served skim milk. In an early childhood class at UD I discussed this with a professor, who reminded me what EC professionals and scientists who do any kind of brain research know- fat is important for brain development at an early age (and concomitantly, milk is NOT the cause of obesity.) This was finally resolved without a general assembly vote.

PAB ACCOMPLISHMENT- At one point a group with influence with OCCL wanted us to have three days of emergency foods "in the event staff and children had to shelter in place." Three days of food to just store in a center is obviously excessive, but then the group came back and wanted the food to cover all the food groups. This is obviously not only unnecessary but a nearly impossible expense. This was resolved without a general assembly vote.

Please note, that while I have mentioned some items as resolvable without a bill actually being put up for the general assembly to vote on, sometimes it was only the threat of a code change that made OCCL back down.

I have given you some examples of particularly stand out problems that PAB fought. These are only a tiny example of changes we managed to get into or out of our regs. There are hundreds of changes we made in the first several years.

Over the years changes to the regs came more and more often. "In the old days" changes were scheduled every five years. But then EC became a more popular item for the news- as we all know- "90% of a child's brain develops by age five"- and also became one of the few things that both Dems and Republicans could agree on. More bills came to the state house that affected our regs. More things came

from the Feds that affected daycares. Unfortunately, a deep dive into what these new policies would end up doing really wasn't done.

These new policies gave OCCL more work to do, but it also gave them an opportunity to tweak other regs, sometimes regs we had worked on just the year before. And OCCL began to change how it dealt with PAB. For our first few years, they sat with us at all our meetings and hashed out many agreements, and then when we sent in our final report in the comment period, they responded to each item we mentioned. Then they stopped doing that. We were explicitly told it was because they didn't have to. Then they stopped telling us about reg changes altogether. When a bill was signed by the governor at the end of session in June or July, we wouldn't hear about it until November or so. Surely it couldn't be expected that providers covered all the bills going through the GA. Even with a husband in Dover I couldn't follow that. They would tell us they had to change the regulations because of a vote in the general assembly and they gave us 30 days for review before it went to the public. Every time we have had new proposed regulations, I have had to specifically ask for the members to be sent hard copies. It is impossible to work as a group and make changes on computers. Every time we proposed meetings I would have to give a schedule of reminders for providers, and then remind OCCL of the reminders. If I did not do so each time it would not be done. Yes, I was exhausted.

Changes were never just surrounding the code change. There might be hundreds of changes, tweaks, word changes, etc. They felt one month was sufficient. As I have mentioned, there are seven of us. We cannot meet until 7 PM. We work 11 hour days. We come from all three counties. We have to give a week's notice per meeting.

Over the years they made it less and less possible for us to work effectively.

A few years ago we did go back to the general assembly and tweaked the code to add the words "encourage" to the PAB. It was meant to have OCCL work more cooperatively with PAB, but has been interpreted just the opposite way.

When members have left the board- Board members have left over the years. All but one to my knowledge left because they were actually leaving daycare. It is that a hard field. When members leave they send an email to the state. As chair I would follow up with another email. We never got a replacement member however, unless I called the governor's office and "sat" with the person who goes through the applications and found appropriate replacements, which then had to go to the governor to be approved. One year we learned of two replacement board members 5 months after they were approved. The governor had signed his approval and OCCL was told, but apparently no one thought that perhaps PAB needed to be told also. We have been told that we could not operate with less than our 7 members or that we make a quorum if we only had 4 members present when there were only 5 members on the total board. Both untrue of course- only a majority of the actual membership was required. But more important, we rarely had a meeting with an actual vote (other than the minutes.) Work on regs was almost always by consensus.

The current chair and I have been given little instruction on how to perform our duties. As I said earlier only our first meeting was attended by a state worker regarding our duties. Most of our other meetings

have been attended by someone from OCCL, but for the purpose of answering our questions regarding regulations.

As far as meeting the requirements of state boards- yes, as Chair I am guilty of not performing these duties perfectly. We have not had an official secretary for several years, and I have not been able to keep up. During Covid another group held a series of meetings regarding temporary changes to regulations and PAB members glommed on to these instead of holding our own. Remote meetings were a particular challenge, in part because the Board did not set them up and it was difficult to parse members from the public, and going through reg changes which involve hundreds of pages is really difficult over Zoom. You do not have a spiffy powerpoint in front of you today for a reason. We don't do powerpoints. I'm sorry. We are daycare providers not techies, and frankly, we don't have time for that.

Staff for the Sunset Committee have made some very specific recommendations. I don't think either of them knows anything about running a business, and certainly they know nothing about running a daycare.

At forums for school board members the question is often asked- Who are your clients?

It's an excellent question and tells a lot about the candidate. It is not an easy question. Very nuanced, very difficult to answer satisfactorily for all audience members. Is it the children? Is it the parents? Is it the taxpayers? And more recently (like in Florida), is it the state?

Public schools are of course quite different from private businesses, which are what PAB represents. For daycare providers this question must be answered differently. I think most of us would agree that DECC, DIEEC, OEL, OCCL, and DOE would not use the same rationale for their answer than we would. None of them are a business, and while they may argue that they have a bottom line one cannot compare a state agency to a private business.

Who pays my salary, and the salary of my staff?

NOT the children. NOT the taxpayers. NOT the state.

I answer to parents. If they like the place, they pay tuition here. If they do not, they will swoop their children up and go elsewhere. In my particular center we are small and very close to our families, but I often remind the staff- Parents are not our buddies. They are clients. And if something happens to their child, no matter how friendly they might have been in the past, they will sue us in a minute.

That is just the reality of running a business.

When daycare was moved over to DOE my immediate concern was that they do not deal with overseeing businesses. HHS does, but not DOE. While putting the care of children in DOE makes some sense if Early Childhood is considered Early Learning, it doesn't make sense for businesses that provide an 11 hour per day service to parents so that those parents can work. We actually saw this in the early months of Covid when schools were immediately closed but daycares were encouraged NOT to close, even though close contact is not something daycares providers can avoid. Indeed, after 3 months, daycares were required to reopen if they wanted any state funds, which put a strain on centers which normally operate on a school year system. They received no state help if they did not open July 1.

I don't know run businesses. How many of you have had to hire and train staff, and fire when necessary, receive tuition checks, open bank accounts, do the banking, do invoices, set tuition rates, file taxes, apply for liability and workers comp insurance, undergo constant audits through insurance, pay rent, electricity, heat and AC, buy toys, art supplies, equipment, paper goods, cleaning supplies, any food or snack, schedule payroll and either do it or hire a payroll company, make sure the center has adequate staff on each day, take calls at any hour or any day from staff or parents in an emergency, apply for business licenses, file for non profit or corporate status, do building, parking lot and playground maintenance. Hire people for snow removal, field any repair work, have a contingent of professionals who can basically get to you at practically a moment's notice to take care of any repairs, stay in constant contact with parents in the event of an unexpected closing (snow days require nearly an all-night vigilance and no one is ever happy, not the parents when you close or the staff if you stay open), perform safety and fire drills, understand the systems in the building (fire, sprinkler, etc), schedule staff duties for cleaning and appropriations, maintain internet, computer and phone systems, create and maintain a budget, make all business decisions.

These are some of the duties that someone outside of classroom staff, must perform. In businesses which have less than 60 children, all of those duties fall to one person, the director. The director is usually the only person not assigned at all times to a classroom, although she may be there if there is no cover for a person who calls out sick. Please note that none of the duties above pertain to duties specific to daycare. Those are just what any business owner deals with. In addition then the director must decide on policies, curriculum, plan CPR/first aid and other trainings, send staff to and catalogue trainings, do trainings herself, do tours, and the big one- take care of families. Families need all kinds of care- they rely on us to be the experts for care, ask countless questions and want advice, or push back against policies they do not agree with. Family members die, move, go off to school, get sick, get another job. Parents are exhausted- one mother told me last week she was so tired she was a failure at everything in life, at her job, as a mom, as a partner. The same with our underpaid staff, who usually receive no benefits. We are social workers, we are caretakers for those big and small.

And we have hundreds of pages of state regulations we have to deal with also. The month before our annual surprise licensing visit is filled with tension. We are making sure all paperwork is in, the building is always spotless (so it is usually the time when painting and other minor repairs are done), the staff doesn't get vacation, everything is posted as it should be. Licensing is expensive and exhausting. Because it is unannounced the director must be available at all times, and if she is the only person who is not assigned a classroom (or is a family provider) she is not getting breaks. Licensing wants to see all of our paperwork, which includes personnel folders, and obviously these are not available to any other staff members, even those who have signed the state required paper saying they are "trained" to work the center when the director is out.

Our paperwork is voluminous and as businesses with one of the smallest profit margins in the country we cannot afford secretaries. Just as the PAB has been basically on its own so are most providers. We rarely even see each other because there are very few opportunities to meet and train just with other providers and we work very long hours. It's a very myopic world.

The PAB tried to reduce that. We tried to create a system that included providers so that they could work together and provide supports for each other. For the Board it has been a way to seek advice with each other but connecting with other providers has been difficult. We do not have an email list of providers in

the state. OCCL sends out all our notices. We were even told that any message we send from the emails we do gather couldn't be used officially because it wouldn't include all providers. I understand that from a transparency point of view (which is pretty funny, using the term transparency for how OCCL operates) but it does put us in a bit of a conundrum- we can't use the emails we have because we don't have them all.

The Staff Report-

Sunset Committee Staff put a lot of effort into the operation of the Board, and found ample evidence that PAB did not do its due diligence with the proper number of meetings for some years and the meeting minutes. I cannot say why meeting agendas were not posted. If the meeting was posted I sent along the agenda (after coaching from OCCL.) But as I said earlier, that was a duty for the chair and I admit it. I was overwhelmed and did resign as chair last year. But I aver that if a chair is not doing exactly what is required you don't sunset the whole Board. You get another chair.

The staff report finds that the DECC has had lots and lots of meetings in the time PAB had 5. However, when one looks at the content of those meetings one will find exactly ONE that deals with Child Care Regulations. That would seem to mean that PAB had five times as many meetings dealing with the one topic that PAB is supposed to be dealing with.

As a matter of fact, I don't think DECC members as a whole have any idea what our regulations actually are, why some are so difficult to adhere to, or why we consider some so useless and absurd. DECC doesn't actually deal with regulations at all.

Let me give you just one example of the absurdity in our regulations- First aid kit- so many items in it that we never use. Splints, paper and notepad, even a mouthguard for years after CPR was no longer mouth to mouth. Any single missing item can get you cited. I have a first aid kit that is kept in my kitchen closed with duct tape so it never gets opened except at licensing each year so we don't get cited. Does DECC have any idea what's in our first aid kits? Do they care?

Likewise, with OEL phone calls. I have listened to all but about two. There are several state agencies on these calls- POC, DECC, DIEEC, PH, OCCL, who all report out. Providers ask lots of questions to the various agencies. Only OCCL deals with our regulations. Most of the questions to OCCL in recent months have dealt with a couple of issues- The developmental screening, a GA bill, which has been pushed forward and backtracked a couple of times now since the original language didn't consider parental rights (something PAB could have helped with), and lead testing, which also not only placed a huge burden on daycares but also parents, who lived in fear of losing their place in daycare. The roll out of the lead regulations were very confusing, the difference between screening and testing was not, and actually still isn't explained properly, and pediatricians are still not screening (because it's SCREENING that is required) children when they should although it is state law and are still sending babies to clinics to give vials of blood when a fingerprick is all that is necessary. PAB could have helped with this. Lead testing of buildings has been a nightmare for centers and family care, especially in the cities where all the buildings are old and contain lead. Everyone, especially providers, wants children safe, but inspectors and mitigators were not ready to receive the huge influx of requests when this bill rolled out.

Most of the energy at the state level is aimed at quality indicators for center staff. They want to make our workers better. You know, I don't need better staff. I need more of them. Every meeting providers repeat

"we don't have enough staff." There have been huge losses in staff in the last three years. Center and family care "seats" have plummeted. Minimum wage is going up, which means that new untrained staff will be making more but long time qualified staff will not be getting raises as businesses cannot raise both. Childcare care business revenues are going down. At every meeting providers say they need relief. They cannot staff their buildings. They are working in rooms every day. They cannot take more children because they don't have staff to cover the ratios. They have huge waitlists.

But the conversation at the state level is about how to up the quality and required professional development of already overworked staff. In response to provider pleas regarding the low wages of employees, the state has instituted two one time bonuses this year and last. This is lovely, but in reality, a \$1000 raise in a \$25,000 job that pays no benefits isn't exactly lifechanging. Nor is it going to bring people into the profession. Especially not when the training requirements are absurd. In the past daycare was a great part time afterschool job for kids and bridged the problem of filling out an 11 hour day. The extra hours of required training (it's now up to 13 hours of training in the first month of employment) is not worth the time for young people anymore and state agencies don't seem to get that.

The daycare profession, so crucial for the health of our state, is under fire. It is crumbling and needs a new direction. The purpose of the PAB is one simple message- Help the state understand what it takes to run our businesses and have regulations that are reasonable enough to make us financially viable.

The Provider Advisory Board has NEVER been more needed.

What can you- the Sunset Committee- do to help?

Prop us up. We need state help like other committees have- a liaison who will post minutes and agendas, send out reminders to providers, help us set up meetings, provide us with materials, give us timely notice (not 60 days) of needed changes so that we can WORK WITH OCCL to structure new regs, a reduction in the actual number of changes each year limited to actual legislative requirements rather than slashing through our entire book.

The unique status of the PAB obviously makes for tension between OCCL and providers. The liaison for the PAB should NOT also be the staff member charged with writing the regulations that we are pushing back on.

You can sunset us. But problems will not go away if you do. The problem of who is going to care for children so that women can work, and it is women who are affected by lack of affordable daycare, is going to intensify. You can realize this and make sure that regulations are reasonable, or you can pretend this is going to be solved by someone else.

However it happens it will be without me. I've put in almost 40 years trying to make the field I love a true profession and I am retiring. I actually thought it would happen by the time I retired, but things are worse now than when I started.

I have said this before and I will say it again-At least in the old days I didn't make much but it was fun. I still don't make much and it's not fun anymore. Isn't that a sad thing to say about early childhood?