



RICK SNYDER  
GOVERNOR

State of Michigan  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING



MAURA D. CORRIGAN  
DIRECTOR

October 22, 2014

Learning As We Grow  
Attn: Kenya Richardson  
16511 Schoolcraft St.  
Detroit, MI 48227

Re: Docket No. 13-015728-DHS  
License: DC8200294716

Dear Ms. Richardson:

On or about September 30, 2014 you were mailed a copy of the Final Decision & Order upholding the Department's notice of intent to revoke your license to operate a child care center. In accordance with that notice and the Final Decision & Order, your license has been revoked effective October 14, 2014. It is understood that you are not receiving children for care now, nor will you be in the future, unless you are properly licensed to do so.

Sincerely,

Jenny Hendrick, Acting Director  
Child Care Licensing Division  
Bureau of Children & Adult Licensing

JH:kam

cc: Rose A. Rafferty-Aguirre, Area Manager  
Shirley Baskin, Licensing Consultant

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BCAL

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES

In the matter of

Learning As We Grow,  
Petitioner,

v

Bureau of Children and Adult  
Licensing,  
Respondent.

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Docket No. 13-015728-DHS

Agency No. DC 8200294716

Agency: Department of  
Human Services

Case Type: DHS BCAL

Filing Type: Sanction

Issued and entered  
this 30 day of September, 2014  
by  
Maura D. Corrigan, Director  
Department of Human Services

**FINAL DECISION AND ORDER**

This matter began with Respondent's September 4, 2013 notice of intent to revoke (notice of intent) a license to operate a child care center under the Child Care Organizations Act (Act), 1973 PA 116, as amended, MCL 722.111 *et seq.* A properly noticed hearing regarding the matter at issue was held by Administrative Law Judge David M. Cohen (ALJ) on March 24, 2014. Attorney Clifford Woodards, II appeared on Petitioner's behalf. Assistant Attorney General Kelley T. McLean represented Respondent.

Respondent sought to revoke Petitioner's license based on allegations in the notice of intent that Petitioner violated the Act, as well as the administrative rules promulgated under the Act. In Count I of the notice of intent, Respondent alleged that Petitioner violated R 400.5105, which states in relevant part:

The center shall provide appropriate care and supervision of children at all times. [Rule 400.5105 (1)]

On July 12, 2013, a three-year-old child wandered unsupervised from Petitioner's child care center, said child was found by a stranger several streets away from Petitioner's facility. A young child that leaves a day care center without the staff's knowledge or supervision demonstrates that staff's inability to provide appropriate care and supervision for the children placed in that facility's care. Therefore, the ALJ properly determined Respondent established Petitioner willfully and substantially violated Rule 400.5105(1).

In Count II of the notice of intent, Respondent alleged that Petitioner violated R 400.5104, which states in pertinent part:

All staff shall be of responsible character and suitable to meet the needs of children. [Rule 400.5104 (1)]

As to Count II, I disagree with the ALJ's determination. The fact that a three-year-old child left Petitioner's child care center unsupervised and without the knowledge of staff, demonstrates Petitioner's staff lacked the responsible character and suitability to meet the needs of the children placed in their care. Regardless, as to whether a child's mother holds the staff harmless from negligent supervision of her child, it is the sole responsibility of Petitioner to assure that all children at the child care center are accounted for so as to assure for their safety and well-being. Petitioner's personnel failed to demonstrate the character and suitability that is required to meet the needs of the children when a child went missing.

Furthermore, the record indicated Petitioner had repeatedly failed to comply with caregiver to child ratios and it is for these reasons along with the fact that a child left the

facility unsupervised that Respondent has demonstrated Petitioner's substantial violation of this rule. Therefore, I reverse the ALJ's conclusion and determine Petitioner willfully and substantially violated Rule 400.5104 (1).

In Count III of the notice of intent, Respondent alleged that Petitioner violated R 400.5111, which states in pertinent part:

Parent's written permission for the child's participation in field trips shall be obtained at the time of enrollment or before each field trip and kept on file in the center. [Rule 400.5111(9)]

There is no dispute that Kenya Richardson, licensee designee, admitted to Petitioner's failure to maintain the required written permission forms on file that permitted a child to participate in field trips or remove the children from the facility for activities outside the child care center. Therefore the ALJ properly determined Petitioner willfully and substantially violated Rule 400.5111 (9).

In Count IV of the notice of intent, Respondent alleged that Petitioner violated R 400.5111, which states in pertinent part:

At the time of the child's initial attendance, a child information card, using a form provided by the department or comparable substitute, filled out by the parent, including written permission, signed by the parent, to seek emergency medical care shall be obtained and kept on file and accessible in the center. [Rule 400.5111(1)]

Petitioner failed to properly maintain the facility's children's information cards as required. During the July 15, 2013 inspection, several information cards were identified missing the required information (Respondent's Exhibit C). Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.5111(1).

In Count V of the notice of intent, Respondent alleged that Petitioner violated R

400.5117, which states in pertinent part:

An outdoor play area located on the center's premises and all outdoor play equipment shall be maintained in a safe condition and inspected daily before use to ensure that no hazards are present. [Rule 400.5117(5)]

The record indicated there was no dispute that Petitioner's outdoor play area was not maintained in a safe condition. Therefore the ALJ properly determined Petitioner willfully and substantially violated Rule 400.5117 (5).

In Count VI of the notice of intent, Respondent alleged that Petitioner violated R 400.5204, which states in pertinent part:

All bedding and equipment shall be appropriate for the child and be clean, comfortable, safe and in good repair. Bedding shall also be in compliance with 2000 PA 219, MCL 722.1051, and known as the children's product safety act. [Rule 400.5204 (1)]

Petitioner did not dispute that the bedding equipment in its facility was not in compliance with the children's product safety act. The ALJ determined that the record established Petitioner's willful rather than substantial violation because there were no previously cited repeat violations of this rule. The record indicated Petitioner had knowledge of its non-compliance and that was sufficient to establish its willful violation of this rule. Therefore the ALJ properly determined Petitioner willfully violated Rule 400.5204 (1).

In Count VII of the notice of intent, Respondent alleged that Petitioner violated R 400.5102, which states in pertinent part:

The licensee shall do all of the following:

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Be responsible for compliance with 1973 PA 116, MCL 722.111 and the rules promulgated under the act. [Rule 400.5102 (1)(c)]

As the result of Petitioner's non-compliance to the Child Care Organizations Act and the rules promulgated thereunder as demonstrated by the evidence presented by Respondent on the record, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.5111 (9).

On July 23, 2014, the ALJ issued and entered a Proposal for Decision (PFD) concluding that Petitioner willfully and substantially violated Rule 400.5101 (1); Rule 400.5111 (9); Rule 400.5111(1); Rule 400.5117 (5); Rule 400.5204 (1); and Rule 400.5102 (1)(c). The parties had 14 days to file exceptions and 14 days to file responses to any exceptions. Respondent filed exceptions. Petitioner did not file exceptions or a response to the exceptions filed by Respondent.

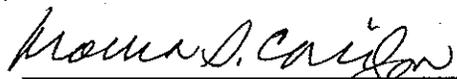
I concur with the ALJ's Findings of Fact and Conclusions of Law with the exception of the findings and conclusions made in Count II. I find that Petitioner willfully and substantially violated Rule 400.5104 (1).

### ORDER

**NOW THEREFORE, IT IS ORDERED that:**

1. To the extent not inconsistent with this Order, the ALJ's Proposal for Decision (PFD) is adopted and is incorporated by reference, and made a part of this Final Decision and Order (see attached PFD).
2. The actions of the Bureau of Children and Adult Licensing in this matter are AFFIRMED.

3. Petitioner's license is REVOKED effective on the date this Final Decision and Order is issued and entered.



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Maura D. Corrigan, Director  
Department of Human Services

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 3<sup>rd</sup> day of ~~September~~ October, 2014.



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