

## Statement of Deficiencies

### 1103.A.-D.: Critical Incidents and Required Notifications

Not Met

1103.A.-D.: An early learning center shall make immediate notification to emergency personnel, law enforcement as applicable, and other appropriate agencies for the following types of critical incidents involving children in care:

1. death;
  2. serious injury or illness that required medical attention;
  3. a child left unsupervised for any amount of time;
  4. use of prohibited behavior management as described in § 1509.A.8.b;
  5. allegations or suspicion of child abuse or neglect by center staff;
  6. an accident involving the transportation of children; or
  7. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.
- B. The parent shall be contacted immediately following any immediate notifications made under Subsection A.
- C. The LDE and other appropriate agencies, such as DCFS, LDH and the Office of State Fire Marshal, as applicable, shall be notified via email within 24 hours of the incident.
- D. The department shall be notified by written report within 24 hours of the incident or the next business day. This written notification shall be made on the department's Critical Incidents Report Form and shall contain all information requested on the form.

#### Finding:

1103.A.C.&D.: Based on record review/interview on 5/23/2023 at 2:30 p.m., S1 failed to provide written notification on the Department's Critical Incident Report form with all requested information and failed to notify DCFS Child Welfare within 24 hours of the following critical incident: Date of incident, 4/28/2023, time of incident, unknown, O1 informed S1 she was taking her children out of daycare, because C1, two-years-old, came home and stated S2 hit him. After reviewing the camera footage, it was observed S2 forcefully pulled C1's arm. S1 notified the Department on the Critical Incident Report via email on 5/10/2023 at 4:04 p.m., and documented the incident did not require Child Welfare to be contacted. S1 stated O1 notified her on 5/10/2023 at approximately 8:30 a.m., that on 4/28/2023, C1 had been crying and saying that S2 hurt him.

S1 notified the Department on the Supplemental Critical Incident Report via email on 5/12/2023 at 6:27 p.m. with information obtained prior to the Critical Incident Report being submitted to the Department and included the following:

- On 5/10/2023, prior to 11:30 a.m., S17 and S18 reviewed video footage from 4/28/2023 at 10:45 a.m. and observed S2 forcefully pick C1 up by his upper arms and put him down, and forcefully pull him to get him to lay down. C1 was observed crying loudly.
- On 5/10/2023, at 2:45 p.m., O1 reported to S18 that C1 stated S2 hurt him and he complained of his neck hurting.
- On 5/10/2023, at 3:14 p.m, S17 and S18 reviewed additional video footage from 4/28/2023, and observed C1 crying. S2 grabs C1 by one arm, his feet not touching the floor, and puts him back on his mat. C1 tries to get up and S2 grabs him by his pant, lays him down, places a blanket over him, and puts her leg on top of his back. C1 flails his head back and forth, and wiggles, trying to get out of S2's hold. C1 continues to struggle to get out of S2's hold until S11 is takes C1 into her classroom to settle him down and he stops crying.

S1 first notified DCFS Child Welfare via Hotline on 5/11/2023 at 1:06 p.m. and failed to include all the information known at the time the report was made. S1 completed an additional report to DCFS Child Welfare via Hotline on 5/12/2023 at 11:30 p.m.

Corrective Action Plan: Effective 6/8/2023, S1 stated she will obtain all information gathered at the time of the incident to be commutated from administrators to center staff so accurate reporting will be completed to the Department and Child Welfare. All staff participated in a mandatory training and reviewed reporting of abuse/neglect to DCFS Child Welfare. All staff will complete the DCFS Mandated Reporter training no later than 6/16/2023, to ensure compliance with this regulation.

### 1509.A.8.a.&b.: Behavior Management Policy

Not Met

1509.A.8.a.&b.: Behavior Management Policy

Each center shall develop and implement a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

The behavior management policy shall prohibit children from being subject to any of the following:

- i. physical or corporal punishment which includes but is not limited to yelling, slapping, spanking, yanking, shaking, pinching, exposure to extreme temperatures or other measures producing physical pain, putting anything in the mouth of a child, requiring a child to exercise, or placing a child in an uncomfortable position.
- ii. verbal abuse, which includes but is not limited to using offensive or profane language, telling a child to "shut up", or making derogatory remarks about children or family members of children in the presence of children;
- iii. the threat of a prohibited action even if there is no intent to follow through with the threat;
- iv. being disciplined by another child;
- v. being bullied by another child;
- vi. being deprived of food or beverages;
- vii. being restrained by devices such as high chairs or feeding tables for disciplinary purposes; and
- viii. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime.

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### Finding:

1509.A.8.a.&b.: Based on record review (video footage) on 5/23/2023 at 1 p.m., although the early learning center has a behavior management policy that prohibits corporal punishment, on 4/28/2023 between 10:49 a.m. and 11:45 a.m., S2 (Date of Hire: 2/3/2022) used the following methods to discipline C1, two-years-old:

#### Video One:

- S2 yells, "Lay down."
- S2 grabs and lifts C1 by his upper arms, swings his body in the air, and holds him above the ground, feet hanging, for approximately two seconds.
- S2 throws C1 down onto the mat headfirst, and he lands on his stomach, face down.

#### Video Two:

- S2 steps back, then forward toward C1, bends down, and in a threatening manner, extends her right hand toward C1, pulls it back, and steps back, made a threatening comment toward C1.

#### Video Three:

- S2 swings C1 by his left arm from the restroom area, with his feet hanging in the air, above the ground, carries him by his left upper arm, around his elbow area, in her right hand. C1 is crying.
- S2 throws C1 down by his left arm into his mat, face first. C1 tries to crawl away and S2 grabs C1's right ankle in her right hand and pulls him back on his mat.
- S2 grabs, extends, and straightens C1's legs and throws them down onto his mat.
- C1 tries to crawl away and S2 grabs, extends C1's legs, covers them with a blanket, and places her leg over C1's back area as he lay face down on his mat. S2 shifts her weight and rest her head and elbow on her left leg draped over the top of C1. C1 kicks his exposed feet from under the blanket.
- C1 tries to pull at the top end of his mat and S2 slides him back down his mat.
- S2 grabs C1 by his right upper arm and yanks him.
- S2 holds C1 by his right upper arm for approximately five to six seconds as he pulls away.
- S2 pulls C1 by his ankles, down the length of his mat. S2 holds C1 by both ankles, in the air, as he uses his arms to try to crawl away.
- S2 grabs C1 around his midsection and shoves him, face down, onto his mat.
- S2 grabs C1 around his thigh area and pulls him back onto his mat as he tries to crawl away.
- S2 grabs C1 by his leg and right elbow and slides him down his mat.
- S2 holds C1 back by his right elbow/upper arm and holds his legs in her left hand as he continues to struggle by pulling his legs under him to crawl away. S2 extends her left leg over C1's legs while holding C1's right upper arm.
- S2 holds onto C1's right arm and pulls C1 down and repositions him under the weight of her left thigh over the top of C1's lower back to restrict him from moving.
- S2 drapes her leg over C1's lower back area, restricting his movement. C1 grabs at the top of his mat to pull away, squirms, bends his knees, and lifts his feet into the air, trying to crawl from under the weight of S2's leg. S2 pushes C1's legs down eleven times after he bends and lifts his feet into the air. S2 sits with her leg over C1 for approximately two minutes, ten seconds.

#### Video Four:

- S2 grabs C1's right arm at the elbow and pulls it down to his side. C1 squirms under the weight of S2's leg.
- S2 wraps C1's legs in a blanket and holds her right arm gripped around his legs as he screams loudly. This continues until the recorded video ends.

#### Video Five:

- S2 raises her right hand into the air and moves it downward, in a spanking motion, over C1's backside.
- S2 grabs C1's right leg and pulls him back over her lap, face down, and holds her right forearm over his lower back
- S2 tucks C1's legs under her right arm at his ankles. C1 is flailing his arms above his head, screaming and crying, "No, no, no." He tries to pull his ankles from under S2's arm and his shoe falls off.
- S2 grabs and lifts C1 up from behind into the air by his left upper arm after he tries to crawl away.
- S2 wraps her right arm around C1 to keep him from moving.
- C1's feet are limp, his body still, and he stops screaming/crying for approximately five seconds until he begins to shift and make a gasping sound and screams loudly.
- S2 sits, leaning her upper body and right arm over C1's body.
- S2 holds C1 with her right arm under C1's stomach and left arm over his back. She holds her arms around him, in this position, grasping tighter each time he squirms in her hold until the video ends.

S2 was terminated on 5/10/2023.

Corrective Action Plan: Effective 6/8/2023, S1 stated all staff attended a mandatory meeting and signed review and understanding of the childcare center's behavior management policy. On Track by Five will assist with a 6 month corrective action plan to aid in trainings and resources to improve staff development and care of children, to ensure compliance with this regulation.

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### 1713.A.&B.&C.: Supervision

Not Met

1713.A.&B.&C.: A: Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

B: Children shall not be left alone in any room, (except the restroom as indicated in Subsection G of this Section or when being provided services by therapeutic professionals, as defined in §103), outdoors, or in vehicles, even momentarily, without staff present.

C: A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

#### Finding:

1713.A.&B.&C.: Based on observation on 6/8/2023 at 9:17 a.m., staff failed to supervise a child at all times. Specialist observed C4, seven-years-old, walk into the one-year-old classroom alone, pick up an insulated cup, and walk out of the building and onto the front fenced-in play yard where S15 and S16 were supervising children.

Corrective Action Plan: Effective 6/8/2023, S1 stated she will review this regulation with all staff that c,hildren are to be supervised at all times, to ensure compliance with this regulation.

### 1715.A.1.&3.: Staff Records and Personnel Files

Not Met

1715.A.1.&3.: Staff Members. Personnel files for each staff member shall be maintained at the center and shall include the following:

1. an application or staff information form containing the following information:
  - a. name;
  - b. date of birth;
  - c. home address and phone number;
  - d. training,
  - e. work experience;
  - f. educational background;
  - g. hire date; and
  - h. first day onsite working with children;
3. Upon termination or resignation of employment, the last date of employment and reason for leaving;

#### Finding:

1715.A.1.: Based on record review on 5/23/2023 at 11 a.m., personnel files for S10 and S16 failed to be maintained with an application or staff information form that included training, work experience, and educational background.

Based on record review on 6/8/2023 at 10:30 a.m., the personnel file for S20 failed to be maintained with an application or staff information form that included training, work experience, and educational background.

Corrective Action Plan: Effective 6/8/2023, S1 stated she will have printed Staff Information Forms completed and included in all personnel files with required information documented, to ensure compliance with this regulation.

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### 1719.A.-C.: Orientation Training

Not Met

1719.A.-C.: A. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall receive center-specific orientation to the policies and practices of the center that at a minimum shall include information on the center:

1. child abuse identification and reporting, including phone numbers for mandatory reporting and suspected child abuse and neglect;
2. location of emergency exits and emergency preparedness plans;
3. handling of emergencies due to food/allergic reactions;
4. location of first-aid supplies;
5. list of children with allergies and special needs;
6. identification of critical staff including but not limited to staff trained in CPR and first aid and staff who can administer medicine;
7. child release policies and restrictions;
8. child-to-staff ratio policies;
9. daily schedules;
10. opening policy;
11. closing policy; and
12. transportation policy and vehicle inspection procedures.

B. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Training Module 1 and the DCFS online Mandated Reporter Training. Key Training Module 1 shall at a minimum include information on the following:

1. general emergency preparedness, including natural disasters and man-caused events;
2. professionalism;
3. health and safety, which includes: daily observations, supervision regulations, daily attendance, child to staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks recognition and reporting of child abuse and neglect;
4. administration of medication consistent with standards for parental consent;
5. prevention and response to emergencies due to food and allergic reactions;
6. appropriate precautions in transporting children, if applicable;
7. public health policies, prevention and control of infectious diseases, including immunization information;
8. handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
9. pediatric first aid and cardiopulmonary resuscitation (CPR);
10. prevention of sudden infant death syndrome and use of safe sleep practices;
11. outdoor play practices;
12. environmental safety; and
13. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
14. child release practices; and
15. critical incident practices and licensing regulations

C. Within 30 calendar days of the first day present at the center and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Orientation Training Modules 2 and 3, that at a minimum shall include information on the following:

1. child development;
2. child guidance;
3. learning activities;
4. health and safety; and
5. early learning development standards.

#### Finding:

1719.B.-C. Based on record review on 5/23/2023 at 11 a.m., S1 failed to provide documentation S15 completed the required LDE Key Training Module 1 within 7 calendar days and the LDE Key Training Modules 2 and 3 within 30 calendar days of first day present at the center on 2/9/2023.

Corrective Action Plan: Effective 6/8/2023, S1 stated she will have all new hire staff complete orientation training modules prior to entering the classroom, to ensure compliance with this regulation.

### 1723.F: CPR/Pediatric First Aid within 60 days

Not Met

1723.F: Within 60 calendar days from the date of hire and prior to assuming sole responsibility for any children, each staff member shall have current certification in pediatric first aid and CPR. During this period, caregivers and teachers who provide direct care for children must be supervised until training is completed.

#### Finding:

1723.F.: Based on record review on 5/23/2023 at 11 a.m., S16 failed to have current certification in Pediatric First Aid within 60 calendar days from date of hire on 3/22/2023. S16 is scheduled to complete training on 6/13/2023.

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Corrective Action Plan: Effective 6/8/2023, S1 stated she will review the Department's approved trainings and course titles and if a new staff's certification does not meet requirement, she will schedule staff to complete timely, to ensure compliance with this regulation.

### 1903.C.: Free of Hazards

Not Met

1903.C.: Indoor and outdoor areas shall be free of hazards.

#### Finding:

1903.C.: Based on observations on 5/23/2023 at 9:48 a.m., the indoor and outdoor area were not free of hazards. An outside electrical socket was uncovered, the after school classroom had six exposed wall electrical sockets and the attic door/tile was not flush and secure in the ceiling, a ceiling tile in the outside restroom was not flush and secure, and the right side handlebar was broken with rusted sharp edges on the airplane riding equipment on the one-year-old play yard. S1 corrected by placing safety covers on the exposed electrical outlets, securing the attic tile, and placing Duct tape over the rusted handle on the play yard.

Corrective Action Plan: Effective 6/8/2023, S1 stated she will conduct a daily walk-through at the end of the day and observe all hazards and correct as necessary, to ensure compliance with this regulation.

### 1911.I.&J.: Proper Lifting of a Child

Not Met

1911.I.&J.: I. Staff members shall adhere to proper techniques for lifting a child.  
J. Staff members shall not lift a child by one or both arms.

#### Finding:

1911.I.&J.: Based on record review (video footage) on 5/23/2023 at 1 p.m., S2 failed to adhere to proper techniques when lifting C1, two-years-old. On 4/28/2023 at 10:50 a.m., S2 lifted and held C1 by his upper arms above the ground for approximately two seconds. On 4/28/2023 at approximately 11:26 a.m., S2 lifted C1 by his left, upper arm/elbow to remove him from inside the classroom restroom. On 4/28/2023, time unknown, S2 lifted C1, from behind, by his left upper arm.

Corrective Action Plan: Effective 6/8/2023, S1 stated all staff attended a mandatory meeting on 5/11/2023 and reviewed proper lifting of children. S1 will continue to be vigilant of staff observations and proper handling of children to ensure they are lifting properly, to ensure compliance with this regulation.

### 1919-D.3.&4.: Food Service and Nutrition - Reasonable Time and Food Served

Not Met

1919-D.3.&4.: 3. Children shall be allowed a reasonable time to eat each meal and snack. Children shall not be forced to finish all their food.  
4. Food shall be given to children on individual plates, cups, napkins, or paper towels, as appropriate, and individual utensils shall be provided, as appropriate.

#### Finding:

1919.D4.: Based on observation on 5/23/2023 at 3:05 p.m., S11 failed to serve the children's snack item on individual plates, cups, napkins. Specialist observed Club crackers directly on the table top in front of 2, one-year-old, children seated at the table. S11 corrected by placing and serving the crackers in individual unused coffee filters included on the food cart.

Corrective Action Plan: Effective 6/8/2023, S1 will review this regulation with all staff.