

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CHILDREN AND )  
FAMILY SERVICES, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 99-0225  
 )  
ALBERT WALKER and ESTORIA WALKER, )  
 )  
Respondents. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case by video teleconference on June 18, 1999, with the parties appearing from Fort Lauderdale, Florida, before J. D. Parrish, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Deborah Guller, Esquire  
Department of Children and Family Services  
201 West Broward Boulevard, Suite 502  
Fort Lauderdale, Florida 33301

For Respondent: Albert Walker and Estoria Walker, pro se  
5311 Southwest 25th Street  
Hollywood, Florida 33023

STATEMENT OF THE ISSUE

Whether the Respondents are entitled to renewal of their foster home license.

PRELIMINARY STATEMENT

This case began on December 17, 1998, when the Department of Children and Family Services (Department or the Agency) issued a notice to the Respondents, Albert and Estoria Walker, that their license to provide foster care would not be renewed. By letter dated January 6, 1999, the Respondents timely requested an administrative hearing in the matter. The case was then forwarded to the Division of Administrative Hearings for formal proceedings on January 14, 1999.

At the hearing conducted on June 18, 1999, the Department presented testimony from the following witnesses: Andrea Segal, a family services counselor employed by the Agency; Monique Galbreath, a former re-licensing counselor who was employed by the Agency; and Jennifer Mays Edwards, licensing supervisor for foster parents for the Agency. The Department's Exhibits numbered 1 through 11 were admitted into evidence. The Respondents testified in their own behalf and offered the testimony of their friend, Rosalie Jenkins. Respondent's Exhibits Numbered 1 and 2 were also received in evidence.

The Transcript of the proceeding was filed with the Division of Administrative Hearings on July 12, 1999. Petitioner's Proposed Recommended Order was timely filed and has been considered in the preparation of this order. The Respondents have not filed a proposed order.

FINDINGS OF FACT

1. Prior to the re-licensing at issue in this proceeding, the Respondents were licensed foster care parents with whom the Department placed minor children for care.

2. When their license came up for renewal in December 1998, the Department informed the Respondents that their license would not be renewed as they had not met the minimum standard for foster parenting.

3. The Respondents have a history of minor incidents which, taken as a whole, have suggested to the Department that they are not able to provide the quality of care to foster children as contemplated by the statute and rules governing foster care providers.

4. More specifically, the Respondents have left minor children ages four and nine in the care of developmentally delayed adolescents. Respondents were not authorized to leave the children with the adolescents nor did they provide meaningful supervision for the young minors. The incident resulted in a call to police who were summoned when the children called their mother.

5. Respondent, Estoria Walker, has also used disparaging comments to and in front of a minor child who was placed in her care. In this instance, in front of the child's case worker, Respondent complained to the child of the volume of food consumed by the child. She sought additional funds to feed the child as

she felt the child's board rate was inadequate to cover the costs of feeding her. Also, the Respondent complained about how the child kept herself. These disparaging remarks to and in front of the child did not contribute to a nurturing environment for the child. The child was ultimately moved from Respondents' home as she was miserable there, and the Respondents did not want her to remain.

6. On another occasion the Respondents were caring for a teenager who became pregnant. Respondents delegated the task of informing the Department of the pregnancy to the teen. As foster parents they assumed no responsibility for notifying the caseworker of the situation. As a result, the caseworker for the teen was not promptly advised of the pregnancy.

7. Respondents gave an adolescent in their care permission to leave their home for an extended visit to the child's relative. They did so without the caseworker's approval or knowledge of the visit. They did so without following Department guidelines for extended visits outside of the foster home.

8. Most of the complaints to the Department resulted from the Respondents' failure to provide a loving, nurturing environment for the foster children placed in their home. Nevertheless, other incidents resulted from a claim of improper discipline, including spanking. As to all of these complaints the Department sought to work with the Respondents, to counsel

them for performance improvement, and to allow them to retain children in their home despite serious reservations.

9. From as early as 1995, the Department received complaints from the foster children in the Respondents' home that they had been inappropriately disciplined with spanking. As a result, Mrs. Walker was required to review and execute the disciplinary policy to assure the Department that the Respondents would not use physical discipline with the children. Despite this reminder, additional complaints of physical discipline were made against the Respondents.

10. When the time came for the Department's committee to consider the renewal of Respondents' license, the entire licensing file documenting all of the above-identified issues was considered. Thereafter, the Department determined it would not renew the license.

#### CONCLUSIONS OF LAW

11. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, these proceedings.

12. Section 409.175, Florida Statutes, provides, in pertinent part:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.  
(1)(a) The purpose of this section is to protect the health, safety, and well-being of all children in the state who are cared for by family foster homes, residential child-caring agencies, and child-placing agencies

by providing for the establishment of licensing requirements for such homes and agencies and providing procedures to determine adherence to these requirements.

\* \* \*

(f) "License" means "license" as defined in s. 120.52(9). A license under this section is issued to a family foster home or other facility and is not a professional license of any individual. Receipt of a license under this section shall not create a property right in the recipient. A license under this act is a public trust and a privilege, and is not an entitlement. This privilege must guide the finder of fact or trier of law at any administrative proceeding or court action initiated by the department.

\* \* \*

(4)(a) The department shall adopt and amend licensing rules for family foster homes, residential child-caring agencies, and child-placing agencies. The department may also adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps. The requirements for licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies shall include:

\* \* \*

2. The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served.

\* \* \*

10. The provision for parental involvement to encourage preservation and strengthening of a child's relationship with the family.

\* \* \*

(8)(a) The department may deny, suspend, or revoke a license.

(b) Any of the following actions by a home or agency or its personnel is a ground for denial, suspension, or revocation of a license:

1. An intentional or negligent act materially affecting the health or safety of children in the home or agency.

2. A violation of the provisions of this section or of licensing rules promulgated pursuant to this section.

13. Rule 65C-13.010, Florida Administrative Code, provides guidelines for persons substituting as parents in the caregiver's role. Such provision requires foster home parents to give physical and emotional support to a foster child without the expectation of a demonstration of appreciation from the child. Moreover, pursuant to the rule, foster home parents are to provide a structured, secure, nurturing environment for the child and to make a commitment to keep the child for a planned period of time.

14. While Respondents successfully completed the training for initial approval as foster care parents, they have demonstrated a continuing failure to comply with Agency policies and rules. The single incidents complained of in this case would not necessarily justify the non-renewal of Respondents' foster care license. Nevertheless, taken in whole, given the history of the incidents and given the Agency's patience in working with these parents to improve performance, the Respondents have not demonstrated a meaningful understanding of the requirements for foster care nor a sufficient level of improvement.

15. All parties concede that providing foster care is demanding and stressful. Persons seeking to provide foster care must be more than sincerely interested in the work. Foster care parents must maintain the minimum skills to achieve standards set forth by the Agency. Regrettably, while sincere in their interest to be foster care parents, Respondents have not provided sufficient support and a consistently acceptable environment for the demanding population they seek to serve.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Children and Family Services enter a final order denying Respondents' request for license renewal as foster care parents.

DONE AND ENTERED this 19th day of August, 1999, in Tallahassee, Leon County, Florida.

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J. D. PARRISH  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 19th day of August, 1999.



COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.