

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CHILDREN AND)
FAMILY SERVICES,)
)
Petitioner,)
)
vs.) Case No. 99-5142
)
GRACE GRANTLEY,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to notice, this cause was heard by Linda M. Rigot, the assigned Administrative Law Judge of the Division of Administrative Hearings, on March 3, 2000, in Miami, Florida.

APPEARANCES

For Petitioner: Rosemarie Rinaldi, Esquire
Department of Children and Family Services
401 Northwest Second Avenue, Suite N-1014
Miami, Florida 33128

For Respondent: Grace Grantley, pro se
3637 Oak Avenue
Miami, Florida 33133

STATEMENT OF THE ISSUE

The issue presented is whether Respondent's foster home license should be renewed.

PRELIMINARY STATEMENT

By correspondence dated September 30, 1999, the Department advised Respondent that her foster home license would not be

renewed due to her failure to meet minimum standards, and Respondent timely requested an evidentiary hearing regarding the Department's determination. This cause was thereafter transferred to the Division of Administrative Hearings to conduct the evidentiary proceeding.

The Department presented the testimony of Giacomo Coschignano, Richard Correa, Elizabeth Gunn, Sam Fateru, and Mavis Whitton. Respondent Grace Grantley testified on her own behalf and presented the testimony of Gladys Jones and Shaneka Grantley. Additionally, the Department's Exhibits numbered 1-4 were admitted in evidence.

Only the Department submitted a proposed recommended order after the conclusion of the evidentiary hearing. That document has been considered in the entry of this Recommended Order.

FINDINGS OF FACT

1. Respondent has been a licensed foster parent for approximately ten years. Prior to receiving her license she completed the required 30 hours of training given to all foster parents. That training included the acceptable methods of discipline that could be administered to foster children, and potential foster parents were specifically advised that no form of corporal or physical punishment could be used. Since that time, Respondent has completed the required eight hours of in-service training annually that also included the acceptable

methods of discipline and the prohibition against corporal punishment. Each year Respondent signed a Discipline Policy Agreement that sets forth the acceptable and unacceptable methods of administering discipline to foster children.

2. Since 1994, Respondent has annually signed a Bilateral Service Agreement by which she agreed not to allow unauthorized persons to live in her home or have custody of the foster children in her care. She also agreed to notify the Department of any change in living arrangements and to have an approved person as a back-up caretaker in case of an emergency.

3. Respondent was hospitalized for a week immediately preceding June 26, 1999. She did not attempt to notify the Department or her approved back-up caretaker that the children would be left alone. Instead, she told her daughter to pick up the children and take them to her home. Her daughter has a criminal record and was not approved by the Department as a back-up person to care for Respondent's foster children.

4. Respondent also told her brother Uncle Sonny to watch her house and told Delilah, one of Respondent's foster children, to have Delilah's older brother Johnny stop by the house after work. Several years earlier Uncle Sonny had been the subject of an accusation by Delilah of sexual abuse. Although Delilah recanted that allegation, the foster children's guardian and the

Department had told Respondent that Uncle Sonny should not be around the children.

5. When her daughter arrived at Respondent's home, Delilah and Rasheeda, the two older foster girls, refused to go with her, so she left them there. Before she arrived at Respondent's house, the biological mother of the sibling group, had come by the house. Upon learning that Respondent was in the hospital, the biological mother took Cotara and Mervin, the younger children, home with her. The biological mother was prohibited by the Department from having custody of the children and was only permitted to visit them in Respondent's home. Respondent's daughter went to the biological mother's house and took Cotara but left Mervin there.

6. Richard Correa was a Children's Home Society case manager assigned to the sibling group placed in Respondent's foster home. After becoming alarmed because he could not reach Respondent by telephone for several days, he went to her home on June 26, 1999.

7. Respondent told him that she had returned home from the hospital the day before and that there had been a physical altercation between Respondent and Delilah and between Respondent and Rasheedah. Rasheedah had a bruise on her neck.

8. Respondent told Correa that she had struck Delilah and Rasheeda because they told her they were going to do what they

wanted. Correa told Respondent that corporal punishment was prohibited. Respondent told Correa that she did not know that. She later told Correa that she had only struck the girls in self-defense after they attacked her. Respondent also told the children's court-appointed guardian later that day that she had hit both Rasheedah and Delilah. At the final hearing, Respondent testified that she had to "push them to the ground to try to keep them from hurting" her and then hit them two or three times with a belt.

9. Correa had the children removed from Respondent's foster home.

CONCLUSIONS OF LAW

10. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter. Sections 120.569 and 120.57(1), Florida Statutes.

11. Section 409.175(4)(a), Florida Statutes, authorizes the Department to adopt licensing rules for foster homes, and the Department has adopted Rule 65C-13.010, Florida Administrative Code. Section (1)(b)5.f of that Rule prohibits corporal punishment of any kind. Section 409.175(8)(b)2, Florida Statutes, authorizes the Department to deny a license for violation of the licensing rules.

12. The Department has met its burden of proving that Respondent violated the Department's licensing rule and that Respondent is not entitled to a foster home license.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered finding Respondent guilty of violating the Department's licensing rule and denying Respondent's request to renew her foster home license.

DONE AND ENTERED this 12th day of May, 2000, in Tallahassee, Leon County, Florida.

LINDA M. RIGOT
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of May, 2000.

COPIES FURNISHED:

Virginia Daire, Agency Clerk
Department of Children and Family Services
Building 2, Room 204B
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700

Josie Tomayo, General Counsel
Department of Children and Family Services
Building 2, Room 204B
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700

Rosemarie Rinaldi, Esquire
Department of Children and Family Services
401 Northwest Second Avenue, Suite N-1014
Miami, Florida 33128

Grace Grantley
3637 Oak Avenue
Miami, Florida 33133

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.