

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CHILDREN AND)
FAMILY SERVICES,)
)
Petitioner,)
)
vs.) Case No. 10-3594
)
3 IN 1 CHILDCARE LEARNING)
CENTER AND CHARLES SMITH,)
)
Respondents.)
_____)

RECOMMENDED ORDER

A final hearing was held in this matter before Robert S. Cohen, Administrative Law Judge with the Division of Administrative Hearings, on August 27, 2010, in Jacksonville, Florida.

APPEARANCES

For Petitioner: Charles Smith, pro se
3 in 1 Childcare and Learning Center
4025 Emerson Street
Jacksonville, Florida 32207

For Respondent: Roger L. D. Williams, Esquire
Department of Children
and Family Services
5920 Arlington Expressway
Jacksonville, Florida 32231

STATEMENT OF THE ISSUE

The issue is whether Respondent violated Florida Statutes and Rules concerning the delivery of childcare services and

should receive fines and other penalties in accordance with Florida law. For the reasons set forth more fully below, Petitioner violated certain provisions of the Florida Statutes and Florida Administrative Code and should be subjected to fines and probation.

PRELIMINARY STATEMENT

By letter dated May 16, 2010, Petitioner, Department of Children and Family Services (Department) informed Respondents, that it was imposing a fine of \$4,960 on Respondent Smith's licensed child care facility, and placing the center's license on probationary status. Respondents timely requested a hearing before the Division of Administrative Hearings, which was held in Jacksonville, Florida, on August 27, 2010.

At the hearing, Petitioner presented the testimony of Meike Rice, Latrice Evans, and Lisa Perkins as witnesses and offered 15 exhibits, which were admitted into evidence. Respondent 3 in 1 Childcare Learning Center presented the testimony of Norma Wallace, its director, and Charles Smith, its owner, as witnesses and offered 13 exhibits, which were admitted into evidence.

A Transcript was filed on September 13, 2010. After the hearing, Petitioner filed proposed findings of fact and conclusions of law on September 22, 2010. Respondents did not file proposed findings of fact and conclusions of law, but filed

a letter on September 21, 2010, in which it requested a reduction or elimination of any fines sought to be imposed against Lisa Perkins, and requesting that the child care center not be placed on probation.

References to statutes are to Florida Statutes (2009) unless otherwise noted.

FINDINGS OF FACT

1. Respondent 3 in 1 Learning Center (the Center) is a child care facility licensed by the Department.

2. A licensed child care facility has the responsibility for providing care to those children who have been placed in its care.

3. Families in Duval County rely upon the Department to monitor child care facilities and ensure compliance with the Florida Statutes and Department's administrative rules.

4. On March 15, 2010, Family Services Counselor Meike Rice received a complaint regarding the Center.

5. The complaint alleged that the Center was transporting children in its 15-passenger van from Head Start to the Center without meeting the proper requirements.

6. Transporting children in a van without the appropriate seat belts or child safety restraints is a dangerous activity that could result in death or serious injury.

7. Ms. Rice visited the Center on March 15, 2010, and saw the van with the engine running and two staff members, Latrice Evans and Lisa Perkins, sitting in the front seat.

8. Ms. Rice asked the staff to turn off the van. She then looked inside the van and observed young children without proper seat belt restraints or car seats.

9. There were eight children in the van. The first row had one child; the second row had two children sharing a seat belt; the third row had two children; and the last row had three children, one of whom was crawling around, one of whom was in a car seat, and one of whom was on the bench seat.

10. Ms. Rice spoke to the van driver, Latrice Evans, and the passenger, Lisa Perkins, whom she knew better as Arial Perkins, and told them of her concerns regarding the complaint and their transportation of the children.

11. Ms. Rice documented on her complaint review that the driver lacked a driver's license, and that her personnel record did not have a copy of the certification to grant them approval to transport children. Moreover, the van had not been certified by the Department as appropriate for transporting children in a day care facility setting.

12. Ms. Rice had been previously informed by Ms. Perkins that she was employed by the facility since December of 2009,

but the staff was unable to provide any documentation of her employment history on the date of Ms. Rice's visit.

13. Ms. Rice found that Ms. Perkins was missing Form 5131, the background screening and personnel file requirement form; verification of her employment for the past two years; documentation of an attestation of good moral character; and a fingerprint card for purposes of conducting the state and federal criminal checks.

14. Ms. Perkins was employed by the Center from November 16, 2009, until January 2010, and was only visiting the Center on the date of Ms. Rice's visit.

15. After observing the van, Ms. Rice entered the Center to conduct a count of the children and to review the Center's records.

16. In the Center, Ms. Rice counted 19 children, putting the Center at its licensed capacity. However, when the eight children in the van were counted, the Center far exceeded its licensed capacity.

17. Ms. Rice informed the Center's director, Ms. Wallace, that she needed to call parents to pick up their children in order for the Center to get back into compliance with its licensed capacity.

18. Ms. Rice spent about two hours at the Center on her March 15, 2010, visit.

19. Ms. Rice issued an Administrative Warning letter to the facility regarding its overall licensed capacity, room capacity, transportation logs, and lack of background screening documents.

20. Ms. Rice returned to her office to address the matters she discovered while investigating the complaint.

21. Ms. Rice and her supervisors determined the violation based upon the lack of proper child restraints for the young children in the van was a Class I violation from which a fine could ensue in the amount of a minimum of \$100 to a maximum of \$500.

22. The Department decided to impose the maximum fine of \$500 based on the number of children who were lacking the required safety restraints and the lack of seat belts.

23. Violation 2 was based upon the employment history check of Ms. Perkins. Since this was the third Class II violation against the Center, having had previous violations on June 23, 2009, and November 10, 2009, the fine would be \$60 per each day of violation.

24. Ms. Rice found no documentation at the time of her inspection concerning Ms. Perkins' employment history, and therefore, made the beginning point for calculating the fine December 31, 2009, and culminating on her March 15, 2010, visit,

for a total of 49 days. At \$60 per day, the fine amounted to \$2,940.

25. Violation 3 was based on the lack of a fingerprint card for Ms. Perkins. This was the first occurrence of violating the standard, the Center having been previously cited on November 10, 2009, with a warning, so a flat \$50 fine was imposed.

26. Violation 4 concerned having the attestation of good moral character on hand for an employee. The Center was previously cited three times for this offense. This Class III violation was documented on June 23, 2009, November 10, 2009, and December 1, 2009. Using the same time period as she used for the other major fine, Ms. Rice issued a fine of \$30 per day for 49 days, totaling \$1,470.

27. Ms. Rice received by fax a copy of the local background check, a copy of the fingerprint card, a copy of final disposition of a criminal case, and a copy of an FDLE report on March 16, 2010, concerning Ms. Perkins. This reinforced her belief that Ms. Perkins was employed by the Center.

28. Ms. Rice worked closely with the Center's director, Ms. Wallace, on each visit to ensure the staff files were reviewed and contained the required information.

29. Ms. Wallace, the director of the Center since November 29, 2009, provided at the hearing exhibits regarding Ms. Perkins, many of which were not previously provided by fax to Ms. Rice. These exhibits included: Ms. Perkins reference check form; her background screening and transfer request; her employment history; her Background Screening and Personnel File Requirements form; her CPR and first aid cards; her Application for Employment in a Child Care Facility; her Attestation of Good Moral Character; her Child Abuse and Neglect Reporting Requirements Acknowledgement; her Application for Employment; her FDLE records check; her Sheriff's Office record check; her fingerprint card; and her letter of discharge dated January 6, 2010. These documents demonstrate that Ms. Perkins was an employee at the Center until January 6, 2010, but not on the date of Ms. Rice's inspection, March 15, 2010.

30. Charles Smith, the Owner of the Center, did not dispute the violations concerning the eight children in the van.

CONCLUSIONS OF LAW

31. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this proceeding. §§ 120.569, 120.57(1), and 120.60, Fla. Stat.

32. Section 402.310, Florida Statutes, provides, in relevant part:

Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines.-

(1) (a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. 402.301-402.319, or the rules adopted there under:

1. Impose an administrative fine not to exceed \$100 per violation, per day. However, if the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed under this section.

2. Convert a license or registration to probation status and require the licensee or registrant to comply with the terms of probation. A probation-status license or registration may not be issued for a period that exceeds 6 months and the probation-status license or registration may not be renewed. A probation-status license or registration may be suspended or revoked if periodic inspection by the department or local licensing agency finds that the probation-status licensee or registrant is not in compliance with the terms of probation or that the probation-status licensee or registrant is not making sufficient progress toward compliance with ss. 402.301-402.319.

33. Concerning the protocols for transporting children, Florida Administrative Code Rule 65C-22.001 provides, in relevant part:

(6) Transportation. For the purpose of this section, vehicles refer to those that are owned, operated or regularly used by the child care facility and vehicles that provide transportation through a contract or agreement with an outside entity. Parents'

personal vehicles used during field trips are excluded from meeting the requirements in paragraphs 65C-22.001(6)(a)2., (b) and (c), F.A.C.

(a) When any vehicle is regularly used by a child care facility to provide transportation, the driver shall have the following:

1. A valid Florida driver's license,
2. An annual physical examination which grants medical approval to drive, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures.

(b) All child care facilities must comply with the insurance requirements found in Section 316.615(4), F.S.

(c) All vehicles regularly used to transport children shall be inspected annually by a mechanic to ensure proper working order. Documentation by the mechanic shall be maintained in the vehicle.

(d) The maximum number of individuals transported in a vehicle may not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(e) Each child, when transported, must be in an individual factory installed seat belt or federally approved child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.

(f) When transporting children, staff-to-child ratios must be maintained at all times. The driver may be included in the staff-to-child ratio. Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:

1. Driver's Log. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of four months. The log shall include each child's name, date, time of departure, time of arrival,

signature of driver, and signature of second staff member to verify the driver's log and that all children have left the vehicle.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the children depart the vehicle;

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

c. Sign, date and record the driver's log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.

3. Upon arrival at the destination, a second staff member shall:

a. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

b. Sign, date and record the driver's log immediately, verifying that all children were accounted for and that the log is complete.

34. Florida Administrative Code Rule 65C-22.006, concerning required personnel records, provides:

(4) Personnel Records. Records shall be maintained and kept current on all child care personnel, as defined by Section 402.302(3), F.S., and household members if the facility is located in a private residence. These shall include:

(a) An employment application with the required statement pursuant to Section 402.3055(1)(b), F.S.

(b) Position and date of employment.

(c) CF-FSP Form 5337, March 2009, Child Abuse & Neglect Reporting Requirements, which is incorporated by reference, must be signed annually by all child care personnel.

(d) Initial Screening. Screening information must be documented on CF-FSP Form 5131, March 2009, Background Screening

and Personnel File Requirements, which is incorporated by reference. Screening includes the following:

1. Level 2 screening as defined in Section 435.04, F.S., which includes at a minimum Federal Bureau of Investigations (FBI), Florida Department of Law Enforcement (FDLE), and local law enforcement records checks. For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida, would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.

2. An employment history check must include the previous two years, which shall include the applicant's job title and a description of their regular duties, confirmation of employment dates, and level of job performance. Failed attempts to obtain the employment history must be documented in the personnel file, and include date, time, and the reason the information was not obtained.

3. CF Form 1649A, January 2007, Child Care Attestation of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel annually or in accordance with the local licensing authority. A copy of the CF Form 1649A may be obtained from the department's website at www.myflorida.com/childcare.

(e) Re-Screening. A screening conducted under this rule is valid for five years, at which time a statewide re-screen must be conducted.

1. The five year re-screen is required for all child care personnel.

2. The five year re-screen must include, at a minimum, statewide criminal records checks through the FDLE and a local criminal records check.

3. CF Form 1649A Child Care Attestation of Good Moral Character must be completed for all child care personnel annually. A copy of the CF 1649A may be obtained from

the department's website at
www.myflorida.com/childcare.

4. Re-screening. Re-screening information for all child care personnel must be documented on CF-FSP Form 5131 March 2009, Background Screening and Personnel File Requirements.

5. A copy of all background screening clearance documents for the director and owner must be included in the department's official licensing file or in accordance with the appropriate local licensing agency requirements.

6. Break In Employment. Child care personnel must be re-screened as outlined in paragraph (4) (d) above following a break in employment in the child care industry that exceeds 90 days.

7. Leave of Absence. If child care personnel takes a leave of absence, such as maternity leave, extended sick leave, migrant child care programs, etc., re-screening is not required unless the five year re-screen has come due during the leave of absence.

(f) Copies of training information and credentials as described in subsections 65C-22.003(4), (6) and (7); F.A.C., as applicable.

(g) Driver's license and driver physical examination documentation. A copy of the driver's license and the physician certification, or another form containing the same elements of the physician certification, granting medical approval to operate the vehicle, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures must also be maintained in the driver's personnel file.

35. Florida Administrative Code Rule 65C-22.010, concerning enforcement, provides, in relevant part, as follows:

(1) Definitions.

(a) "Day" means a weekday, excluding weekends and holidays.

(b) "Probation" is a licensing status indicating the license is in jeopardy of being revoked or not renewed due to violations of licensing standards. Probation may require the licensee to comply with specific conditions intended to ensure that the licensee comes into and maintains compliance with licensing standards. Examples of such conditions are: a deadline to remedy an existing violation, a specified period during which compliance with licensing standards must be strictly maintained; and specified conditions under which the facility must operate during the probationary period.

(c) "Standards" are requirements for the operation of a licensed facility provided in statute or in rule.

(d) "Violation" means a finding of noncompliance by the department or local licensing authority of a licensing standard.

1. "Class I Violation" is an incident of noncompliance with a Class I standard as described on CF-FSP Form 5316, March 2009. Child Care Facility Standards Classification Summary, which is incorporated by reference. A copy of the CF-FSP Form 5316 may be obtained from the department's website at www.myflorida.com/childcare. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

2. "Class II Violation" is the second or subsequent incident of noncompliance with an individual Class II standard as described on CF-FSP Form 5316. Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.

3. "Class III Violation" is the third or subsequent incident of noncompliance with an individual Class III standard as described on CF-FSP Form 5316. Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.

4. "Technical Support Violations" are the first or second occurrence of noncompliance of an individual Class III standard or the first occurrence of noncompliance of an individual Class II standard.

(2) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The department shall take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Each standard violation has an assigned classification based on the nature or severity of the violation(s) as identified within the Child Care Facility Standards Classification Summary, CF-FSP Form 5316.

(c) A violation of a Class II standard that results in death or serious harm to a child shall escalate to a Class I violation.

(d) Failure to submit a completed CF-FSP Form 5017, Application for a License to Operate a Child Care Facility, which is incorporated by reference in paragraph 65C-22.001(1)(a), F.A.C., for renewal of an annual license at least 45 days prior to the expiration date of the current license constitutes a licensing violation. The department shall issue an administrative complaint imposing a fine of \$50.00 for the first occurrence, \$100.00 for the second occurrence, and \$200.00 for each subsequent occurrence within a five year period.

(e) Disciplinary sanctions for licensing violations that occur within a two year

period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second violation of a Class I standard, the department shall, upon applying the factors in Section 402.310(1), F.S., issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation, and may impose other disciplinary sanctions in addition to the fine.

b. For the third and subsequent violation of a Class I standard, the department shall issue an administrative complaint to suspend, deny or revoke the license. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the first violation of a Class II standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard occur. The violation will be classified as "Technical Support."

b. For the second violation of the same Class II standard, the department shall issue an administrative complaint imposing a fine of \$50 for each violation. This violation, and subsequent violations, of the same standard within a two year period will be classified as "Class II."

c. For the third violation of the same Class II standard, the department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth violation of the same Class II standard, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing an

additional fine of \$75 per day for each violation.

e. For the fifth and subsequent violation of the same Class II standard, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. For the first violation of a Class III standard, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III standard, the department shall issue an administrative complaint imposing a fine of \$25 for each violation. This violation, and subsequent violations of the same standard within a two year period will be classified as "Class III."

d. For the fourth violation of the same Class III standard, the department shall issue an administrative complaint imposing a fine of \$30 per day for each violation.

e. For the fifth violation of the same Class III standard, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III standard, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue

an administrative complaint imposing a fine of \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first violation of a Class III Children's Health and/or Immunization standard, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III Children's Health and/or Immunization standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$25 for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two year period will be classified as "Class III."

d. For the fourth violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$30 for each violation.

e. For the fifth violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint placing the provider's license or registration on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing an

additional fine of \$50 per day for each violation.

36. Ms. Rice's investigation clearly showed a violation of the Department's rules regarding proper transport of children. Mr. Smith's acceptance of his responsibility for this violation as owner of the Center justifies the Department's determination of a Class I violation and its decision to impose a \$500 fine for this infraction. Further, the Center should not transport any children in the future without ensuring it has the required number of child safety restraints and seat belts, where appropriate.

37. The remaining violations (Numbers 2, 3, and 4) at issue in this matter concern former employee Lisa Perkins who was present in the van as a passenger on March 15, 2010, when Ms. Rice made her inspection. The evidence produced at hearing demonstrates that Ms. Perkins was not employed by the Center on March 15, 2010, but was visiting her friend Latrice Evans. Ms. Perkins' employment had been terminated on January 7, 2010. However, the evidence is clear that Ms. Perkins had been employed by the Center from November 16, 2009, through January 6, 2010, a total of 22 working days.

38. Ms. Wallace, the Center's director, was unable to produce for Ms. Rice the required employment records on Ms. Perkins on March 15, 2010, the date of the inspection. At

hearing, Ms. Wallace produced all the required employment records for Ms. Perkins, and they appeared to be authentic and in existence prior to the inspection date of March 15, 2010. Since the records existed on the date of Ms. Rice's inspection, the only issue remaining is why they were not made available to Ms. Rice, and whether the Center can be excused for not physically having the records on site at the time of the inspection brought about because of an anonymous complaint.

39. Florida Administrative Code Rule 65C-22.006(4) requires that the personnel records be "maintained and kept current on all child care personnel." "Child care personnel" are defined as "all owners, operators, employees, and volunteers working in a child care facility." § 402.302(3), Fla. Stat. Rule 65C-22.006(1) requires that such records be "maintained at the facility and shall be available during the hours of operation for review by the licensing authority."

40. Licensure disciplinary statutes are penal in nature and must be construed strictly, with any ambiguities in the statutes or rules resolved in favor of the licensee. See State ex rel. Vining v. Fla. Real Estate Comm'n, 281 So. 2d 487 (Fla. 1973); Lester v. Dep't of Prof'l & Occupational Regulations, State Bd. of Med. Exam'rs, 348 So. 2d 923 (Fla. 1st DCA 1977).

41. The records concerning Ms. Perkins were clearly not available at the Center when Ms. Rice conducted her inspection

on March 15, 2010. The Department's statutes and rules do not address whether records of former employees must be maintained at the child care facility and available for inspection. Because these statutes and rules are penal in nature, they must be strictly construed. A strict reading of Sections 402.301-302, as well as Rule 65C-22.006(1) and (4), do not lead to the conclusion that the records of former employees must be maintained at all times on the premises of a licensed child care facility for review by Department inspectors. The more reasonable reading of the rule is that only the records of currently-employed personnel must be maintained and available for inspection. Despite the fact that Ms. Perkins, a former employee, was sitting in the van on the date of Ms. Rice's inspection; and despite the fact that Ms. Rice, not unreasonably, assumed that Ms. Perkins was an employee on the date of the inspection, the Department did not prove she was an employee of the Center on that date. In fact, Respondents proved that Ms. Perkins was not an employee of the Center on March 15, 2010, having been discharged on January 6, 2010. Since Ms. Perkins was not an employee at the time of the inspection in question, the Center cannot be held responsible for not being able to produce her employment records that day.

42. The Department offered evidence of violations of the occupancy standards for children at the Center, but offered no

evidence of an appropriate fine for such violations on the date of the March 15 inspection. However, the Department suggested that placing the Center on probationary status would help resolve this issue. That appears to be a reasonable solution.

43. The violations that were the subject of these proceedings occurred in the early months of Ms. Wallace's tenure as director of the Center. While this in no way excuses the Center from compliance with the Department's statutes and rules, it supports the need for a probationary period to allow the Center, under Ms. Wallace's guidance, to get on the right track. Accordingly, the Center should be placed on probationary status for a period of six months. During this period, the Department may ensure that the Center complies with all applicable statutes and rules concerning recordkeeping, transportation of children, and compliance with the capacity requirements for licensed child care centers.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department issue a final order imposing a fine of \$500 against Respondents and placing 3 in 1 Childcare and Learning Center on probationary status for six months.

DONE AND ENTERED this 15th day of November, 2010, in
Tallahassee, Leon County, Florida.



ROBERT S. COHEN
Administrative Law Judge
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Filed with the Clerk of the
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this 15th day of November, 2010.

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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.