

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES

DEPARTMENT OF CHILDREN AND
FAMILIES,

Petitioner,

CASE NO. 12-0750
RENDITION NO. DCF-12-349FO

v.

REDLANDS CHRSTIAN MIGRANT
ASSOCIATION, INC., d/b/a RCMA SMITH
BROWN CHILD DEVELOPMENT CENTER

Respondent.

FILED
AUG 27 2012
DCF Department Clerk

FINAL ORDER

THIS CAUSE is before me for entry of a final order. The recommended order finds respondent failed to meet a child at a school bus stop as it had undertaken to do, but concludes the Department did not prove by clear and convincing evidence respondent was responsible for that failure. The administrative law judge (ALJ) recommended the Department rescind the administrative complaint. Neither party filed exceptions to the recommended order.

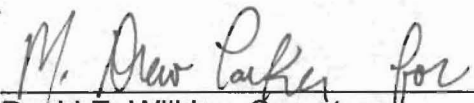
The recommended order is approved and adopted with one modification. In recommended order paragraph 36, the ALJ concluded section 402.281, Florida Statutes, would not require the Department to terminate respondent's Gold Seal Quality Care (Gold Seal) designation as a result of an established Class I licensing standard violation. The ALJ concluded the Department "can

impose whatever sanction best meets the offense at issue." This is an erroneous interpretation of section 402.281, Florida Statutes.

Section 402.310, Florida Statutes, gives the Department discretion to impose sanctions against a child care "license or registration" for violations of sections 402.301 – 402.319, Florida Statutes. This plainly does not include Gold Seal designations, because the authorizing statute is not within sections 402.301 – 402.319. A Gold Seal designation, moreover, is not a license within the meaning of section 120.52(10), Florida Statutes, because it is not an authorization "required by law." A Gold Seal designation is merely a legislatively-established mark of quality a child care facility may apply for, if it meets the statutory criteria. Termination of a Gold Seal designation is not a sanction; it is a collateral consequence of certain sanctions described in section 402.281(4), Florida Statutes. In the event a facility is determined to have committed a Class I violation, the Department must terminate the designation. The ALJ's contrary conclusion in recommended order paragraph 36 is rejected. This modification has no effect on the outcome of this proceeding.

Accordingly, the Department's December 29, 2011, administrative complaint is rescinded.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 24th day of August, 2012.



David E. Wilkins, Secretary

RIGHT TO APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, IN THE DISTRICT COURT OF APPEAL WHERE THE APPELLANT RESIDES, OR IN THE FIRST DISTRICT COURT OF APPEAL. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA RULES OF APPELLATE PROCEDURE. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished:

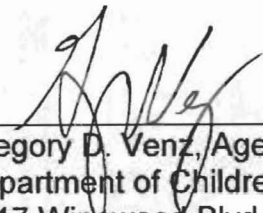
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Division of Administrative Hearing
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this final order was provided to the above-named individuals electronically or by U.S. Mail, this 27 day of August, 2012.



Gregory D. Venz, Agency Clerk
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