

STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES

FEB 07 2020  
DCF Department Clerk

THE CREATIVE PRESCHOOL, INC.,

Petitioner,  
v.

CASE NO. 19-2858RU  
RENDITION NO. DCF-20-032-FO

DEPARTMENT OF CHILDREN AND  
FAMILIES,

Respondent.

FILED  
FEB 07 2020

DEPARTMENT OF CHILDREN AND  
FAMILIES,

DCF Department Clerk

Petitioner,

CASE NO. 19-2944

THE CREATIVE PRESCHOOL, INC.,

Respondent.

**FINAL ORDER CLOSING FILE**

THIS CAUSE is before me for entry of a final order. The Order Closing Files, dated October 28, 2019, indicated Petitioner filed a Notice of Voluntary Dismissal in case number 19-2858RU, and the Department filed a Notice of Withdrawal in case number 19-2944. There are no further issues between the parties. These matters are closed.

**DONE AND ORDERED** in Tallahassee, Leon County, Florida, this 3rd day of February, 2020.

  
\_\_\_\_\_  
Chad Poppell, Secretary

**NOTICE OF RIGHT TO APPEAL**

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY A PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE. SUCH APPEAL IS INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES AT 1317 WINEWOOD BOULEVARD, BUILDING 2, ROOM 204, TALLAHASSEE, FLORIDA 32399-0700, AND A SECOND COPY ALONG WITH THE FILING FEE AS PRESCRIBED BY LAW, IN THE DISTRICT COURT OF APPEAL WHERE THE PARTY RESIDES OR IN THE FIRST DISTRICT COURT OF APPEAL. THE NOTICE OF APPEAL MUST BE FILED (RECEIVED) WITHIN 30 DAYS OF RENDITION OF THIS ORDER.<sup>1</sup>

Copies furnished to the following via U.S. Mail on date of Rendition of this Order.<sup>2</sup>

Stefanie Beach Camfield, Esq.  
Assistant General Counsel  
Department of Children and Families  
1317 Winewood Blvd., Bldg. 2, Rm. 204  
Tallahassee, FL 32399

Claudio Llado, Clerk  
Division of Administrative Hearings  
Three DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32301

Camille Larson, Esq.  
Assistant General Counsel  
Department of Children and Families  
2383 Phillips Rd., Rm. 231  
Tallahassee, FL 32308

Mark J. Stempler, Esq.  
Becker & Poliakoff, P.A.  
625 N. Flagler Dr., 7<sup>th</sup> Fl.  
West Palm Beach, FL 33401

  
\_\_\_\_\_  
Lacey Kantor, Agency Clerk

<sup>1</sup> The date of the "rendition" of this Order is the date that is stamped on its first page.

<sup>2</sup> The date of "rendition" of this Order is the date that is stamped on its first page.

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

THE CREATIVE PRESCHOOL, INC.,

Petitioner,

vs.

Case No. 19-2858RU

DEPARTMENT OF CHILDREN AND  
FAMILIES,

Respondent.

\_\_\_\_\_  
DEPARTMENT OF CHILDREN AND  
FAMILIES,

Petitioner,

vs.

Case No. 19-2944

THE CREATIVE PRESCHOOL, INC.,

Respondent.  
\_\_\_\_\_

ORDER CLOSING FILES

This cause having come before the undersigned on Petitioner's Notice of Voluntary Dismissal, filed on October 23, 2019, in DOAH Case No. 19-2858RU; and the Department's Notice of Withdrawal, filed on October 23, 2019, in DOAH Case No. 19-2944, and the undersigned being fully advised, it is, therefore,

ORDERED that the files of the Division of Administrative Hearings are closed.

DONE AND ORDERED this 28th day of October, 2019, in Tallahassee, Leon County, Florida.

*Lawrence P. Stevenson*

---

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

Filed with the Clerk of the  
Division of Administrative Hearings  
this 28th day of October, 2019.

COPIES FURNISHED:

Mark J. Stempler, Esquire  
Becker & Poliakoff, P.A.  
7th Floor  
625 North Flagler Drive  
West Palm Beach, Florida 33401  
(eServed)

Stefanie Beach Camfield, Esquire  
Department of Children and Families  
Building 2, Suite 204  
1317 Winewood Boulevard  
Tallahassee, Florida 32399  
(eServed)

Lacey Kantor, Esquire  
Department of Children and Families  
Building 2, Room 204Z  
1317 Winewood Boulevard  
Tallahassee, Florida 32399-0700  
(eServed)

Camille Larson, Esquire  
Department of Children and Families  
Room 231  
2383 Phillips Road  
Tallahassee, Florida 32308  
(eServed)

Ernest Reddick, Program Administrator  
Florida Administrative Code and Register  
Department of State  
R. A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399-0250  
(eServed)

Ken Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400  
(eServed)

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

THE CREATIVE PRESCHOOL, INC.,

Petitioner,

Case No. 19-2858RU

vs.

DEPARTMENT OF CHILDREN  
AND FAMILIES,

Respondent.

\_\_\_\_\_/

DEPARTMENT OF CHILDREN  
AND FAMILIES,

Petitioner,

Case No. 19-2944

vs.

THE CREATIVE PRESCHOOL, INC.,

Respondent.

\_\_\_\_\_/

**SETTLEMENT AGREEMENT**

This settlement agreement is entered by and between The Creative Preschool, Inc., (“Creative”), and the State of Florida, Department of Children and Families, (“DCF”), for the purposes of settling, resolving, compromising and concluding both of the above-referenced cases before the Division of Administrative Hearings. Creative and DCF hereby agree to the following:

1. DCF has jurisdiction over Creative by virtue of the provisions of sections 402.301 – 402.319, Florida Statutes.
2. Creative is licensed to operate a child care facility under License #C02LE0234, located at 2746 West Tharpe Street, Tallahassee, Florida 32303, as a licensed child care facility in compliance with Chapter 402, Florida Statutes, and Fla. Admin. Code Rule 65C-22.

3. Division of Administrative Hearings case number 19-2858RU is a rule challenge filed by Creative in response to an Administrative Complaint filed by the Department on December 10, 2018.

4. Division of Administrative Hearings case number 19-2944 is the related case involving Petitioner's challenge of the Administrative Complaint filed by the Department on December 10, 2018, and the Amended Administrative Complaint subsequently filed by the Department on March 14, 2019. The Order granting the Department's Motion to Amend the Complaint was granted on March 25, 2019.

5. In the interest of resolving both of the above-referenced cases, DCF and Creative choose to settle these matters as set forth herein.

6. In the Amended Administrative Complaint, DCF cited Creative with a violation of Section 3.2.D of the Child Care Facility Handbook, incorporated by reference at Rule 65C-22.001(6), Florida Administrative Code, for an incident involving an open wine bottle that was found in the facility's refrigerator during operating hours on October 15, 2018. This was cited as a Class I violation of child care licensing standard 13.6 of the Child Care Standards Classification Summary, incorporated by reference at Rule 65C-22.010(1)(e)1, F.A.C., which reads: Narcotics, alcohol, or impairing drugs were present on the premises or in vehicles used by the child care facility.

7. On October 10, 2018, Hurricane Michael made landfall near Mexico City Beach, Florida, approximately 100 miles Southwest of Tallahassee, Florida. As a result of the hurricane, Creative's facility was without power and closed until October 15, 2018. The Department completed an inspection during the early morning of October 15, 2018 when Creative re-opened, when the aforementioned violation was noted. The wine was left at the facility due to an after-

hours event hosted by parents at the facility. The wine was never accessed by children, nor was any staff was under the influence of alcohol while caring for children.

8. After reviewing the totality of the facts surrounding the violation, the impact of Hurricane Michael to our area, as well as Creative's previous licensing history, DCF agrees to reduce the Class I violation to a Class II violation of child care licensing standard 12.7 of the Child Care Standards Classification Summary which reads: A safety deficiency having a moderate potential for harm to the children in care was observed.

9. As the Class I violation is reduced to a Class II violation, DCF hereby withdraws its intent to revoke Creative's Gold Seal Quality Care designation based on the Class I violation that was cited October 15, 2018. Should Creative be cited for a second Class II violation of child care licensing standard 12.7 within a two year period, DCF may issue an intent to revoke Creative's Gold Seal Quality Care designation in accordance with s. 402.281(2)(b), Fla. Stat. Nothing in this agreement precludes DCF from seeking to revoke Creative's Gold Seal Quality Care designation in accordance with s. 402.281(4), Fla. Stat., for other violations that are not the subject of the above-referenced Amended Administrative Complaint.

10. In exchange for the reduction of the violation Creative agrees to:

a. Payment of the \$250 administrative fine within thirty (30) days of the full execution of this agreement;

b. Require Pam Phelps, the current director, and 20% of remaining child care personnel to attend and complete instructor led training on Child Care Rules and Regulations provided by the Department via the local Training Coordinating Agency. The training is to be completed by Dr. Phelps within ninety (90) days of this agreement. If the aforementioned child care personnel are unable to attend



and complete the training within one-hundred twenty (120) days of this agreement, they are take the next available training that occurs in Leon County after that 120 day period.; and

c. Ensure that no alcohol will be at the facility at any time during operational hours or when children are present on site at the facility.

11. Notwithstanding any other provision herein, failure to pay the fine referenced in paragraph 10 (a) will result in non-renewal of Creative's license.

12. The inspection summary for October 15, 2018, will be amended to reflect the reduced citation as referenced in paragraph 8 within ten (10) days of the full execution of this agreement.

13. In consideration of the forgoing admissions, promises, and undertakings by DCF, and upon receipt of a fully executed copy of this Settlement Agreement, Creative agrees to voluntarily dismiss Division of Administrative Hearings case number 19-2858RU.

14. In consideration of the forgoing admissions, promises, and undertakings by Creative, and upon receipt of a fully executed copy of this Settlement Agreement, DCF agrees to withdraw the Amended Administrative Complaint and file a Notice of Withdrawal and Motion to Dismiss the Division of Administrative Hearings case number 19-2944.

15. This settlement agreement does not constitute a waiver or compromise of any violations other than those specified in this agreement.


16. Creative hereby waives any rights it might have to any hearing to which it might be entitled to as to the above-referenced cases. Neither party shall seek appellate review of these matters.

17. This agreement encompasses the entire understanding between the parties to this matter and there are no undertakings of the parties to each other relative to this matter that are not set forth herein. Each party shall bear its own attorney fees and costs.

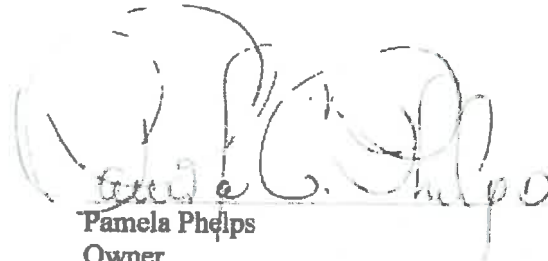
18. This agreement shall become effective immediately upon the execution of the last signature.

19. The parties represent, each to the other, that the individuals executing this Settlement Agreement have the requisite authority to enter this agreement and bind their respective principals.

**SIGNATURE OF ALL PARTIES:**

  
Samantha Wass de Czege  
Director, Office of Child Care Regulation  
Department of Children and Families  
1317 Winewood Blvd.  
Tallahassee, FL 32399

Date: 10/11/2019

  
Pamela Phelps  
Owner  
The Creative Pre-School, Inc.  
2746 West Tharpe Street  
Tallahassee, FL 32303

Date: \_\_\_\_\_