

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CHILDREN AND
FAMILIES,

Petitioner,

Case No. 20-1900

vs.

PARRAMORE CHRISTIAN CENTER,

Respondent.

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RECOMMENDED ORDER

The final hearing in this matter was conducted before Brian A. Newman, Administrative Law Judge of the Division of Administrative Hearings, pursuant to sections 120.569 and 120.57(1), Florida Statutes (2019), on May 22, 2020, by video teleconference at sites in Tallahassee and Altamonte Springs, Florida.

APPEARANCES

For Petitioner: Brian Christopher Meola, Esquire
Department of Children and Families
400 West Robinson Street, Suite S-1129
Orlando, Florida 32801

For Respondent: CaSarah Henderson, pro se
Little Kings and Queens Learning Center
800 West Central Boulevard
Orlando, Florida 32805

STATEMENT OF THE ISSUE

Whether the application filed by CaSarah Henderson to obtain a license to operate a child care facility through an entity known as Parramore Christian Center should be granted or denied.

PRELIMINARY STATEMENT

On October 29, 2019, Ms. Henderson filed an application with the Department of Children and Families (Department) to obtain a child care facility license for Parramore Christian Academy. On March 9, 2020, the Department denied that application based upon the assertion that Ms. Henderson had a history of multiple violations operating child care facilities at the same location from 2015 through early 2019.

The final hearing was held on May 22, 2020, by video teleconference at sites in Altamonte Springs and Tallahassee, Florida, and was completed in one day. At the final hearing, the Department presented the testimony of Christina Bryant, Shelley Tinney, Linda Halpin, Erica Simone Baker, and Jennifer Rodriguez. Petitioner's Exhibits A through G were admitted into evidence. Ms. Henderson testified on her own behalf.

A one-volume Transcript was filed on June 16, 2020. The parties timely filed Proposed Recommended Orders, which have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. The Department is the state agency charged with regulating licensed child care providers in the State of Florida.
2. CaSarah Henderson owns 80 percent of Parramore Christian Academy, an entity organized for the purpose of operating a child care facility.
3. On October 29, 2019, Ms. Henderson filed an application with the Department to obtain a child care provider license for Parramore Christian Academy to enable her to operate a child care facility at 800 West Central

Boulevard in Orlando, Florida.¹ On March 9, 2020, the Department denied that application based upon Ms. Henderson’s history of multiple violations operating another child care facility at the same location known as Little Kings and Queens Learning Center (“Little Kings and Queens”). The Department also denied the Parramore Christian Academy license application based upon the assertion that Ms. Henderson had a history of violations in the operation of a second child care facility—also operated at the same location— known as Beautiful Angels Academy.

4. The Department has proven that Ms. Henderson has a history of multiple violations while operating Little Kings and Queens. The Department did not prove, however, that Ms. Henderson owned or operated Beautiful Angels Academy, and the history of violations committed through the operation of Beautiful Angels Academy will not be considered a basis to deny the Parramore Christian Academy license filed by Ms. Henderson.

Little Kings and Queens

5. Ms. Henderson was the sole owner and operator of a licensed child care facility known as Little Kings and Queens located at 800 West Central Boulevard in Orlando, Florida.

6. On May 5, 2017, the Department filed an Administrative Complaint against Little Kings and Queens, citing two supervision violations² that occurred on November 2, 2015, and April 7, 2017, and five ratio violations³

¹ Neither party offered the application that Ms. Henderson filed as the owner/operator of Parramore Christian Academy as an exhibit. The Department has not alleged that the application was incomplete or deficient in any way. Rather, the sole basis for the denial of the Parramore Christian Academy license application is Ms. Henderson’s history of multiple violations and fines incurred in the operation of child care centers she previously owned and operated on the same property. As such, the undersigned presumed for the purpose of this Recommended Order that the Parramore Christian Academy application was complete and otherwise comported with the applicable statutory and rule requirements necessary to obtain a child care license.

² A supervision violation occurs when a child’s activities are not adequately supervised at the child care center. Fla. Admin. Code R. 65C-22.001(5)(a) (2016).

³ A ratio violation occurs when the prescribed ratio of staff to children has not been met. Fla. Admin. Code R. 65C-22.001(4) (2016).

that occurred on March 21, 2017, April 4, 2017, April 7, 2017, April 11, 2017, and April 18, 2017. All of the violations charged in the Administrative Complaint were Class II violations, the second most severe violation category.⁴

7. The Administrative Complaint sought fines totaling \$1,385 and a 30-day suspension of Little Kings and Queens' child care provider license. That action was settled on August 1, 2017. In the settlement agreement that resolved that case ("Settlement Agreement"), Little Kings and Queens admitted to the violations of the supervision rule and ratio rule as charged in the Administrative Complaint, and agreed to pay a \$500 fine. Little Kings and Queens also agreed to be placed on probation for three months in lieu of the 30-day license suspension sought in the Administrative Complaint. The Settlement Agreement also states:

If the Department initiates an administrative action against Little Kings and Queens in the future, for any reason, the Department shall not be required to re-prove the [supervision and ratio violations admitted to in the settlement agreement].

8. On November 1, 2017, Little Kings and Queens filed an application to renew its child care provider license. On December 7, 2017, the Department

⁴ When the Administrative Complaint was filed, the Department categorized violations into four severity categories: Class I, Class II, Class III and Technical Support violations. *See* Fla. Admin. Code R. 65C-22.010(d) (2016). 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. Fla. Admin. Code R. 65C-22.010(d)1. 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. Fla. Admin. Code R. 65C-22.010(d)2. 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. Fla. Admin. Code R. 65C-22.010(d)3. 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. Fla. Admin. Code R. 65C-22.010(d)4. Rule 65C-22.010 was amended on October 25, 2017, to eliminate the Technical Support violation categories. The amendment also redefined Class I violations, but Class I remained the most serious violation category.

issued a notice of intent to deny the renewal application (“Notice of Intent”) because it found more violations when the facility was on probation. Specifically, the Department found Class II ratio violations on August 1, 2017, and September 27, 2017.

9. In addition, the Department charged three separate Class I violations because on October 26, 2017, a two-year-old boy left Little Kings and Queens, unsupervised, and was found at a bus station down the street by a good samaritan who reported the incident. Ms. Henderson was also accused of providing false information to law enforcement regarding this incident. Specifically, she was accused of falsely claiming that the two-year-old boy ran out the door when she opened the door to take out the trash, but returned to the center immediately. The Notice of Intent sought total fines of \$1,700 for the new Class I and Class II violations in addition to the non-renewal of the license.

10. The Notice of Intent also cites the history of Class II violations admitted to in the Settlement Agreement as a basis to non-renew.

11. The Notice of Intent indicates it was hand-delivered to Ms. Henderson, and provides notice of her right to request a hearing to challenge the denial of the renewal application. Ms. Henderson denies having received the Notice of Intent. The Department did not offer any testimony from the individual who hand-delivered the Notice of Intent to Ms. Henderson, and did not offer any other proof of delivery. Nevertheless, Ms. Henderson admits to surrendering the Little Kings and Queens license in December of 2017 to avoid fighting over the renewal of the license, and admits that she knew there were unresolved violations and pending fines when she surrendered the license. It is reasonable to infer based upon Ms. Henderson’s surrender of the license with this knowledge that she received the Notice of Intent and therefore had actual knowledge of the charges pending as identified in the Notice of Intent when she surrendered the license.

12. Ms. Henderson did not request a hearing to contest the non-renewal of the Little Kings and Queens license, or the fines sought therein, and the Notice of Intent became final. *See* § 402.310(2), Fla. Stat. (2017) (“If the applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days after receipt of the notice, the license shall be deemed denied, suspended, or revoked; the license or registration shall be converted to probation status; or an administrative fine shall be imposed.”). The fines assessed in the Notice of Intent totaling \$1,700 have not been paid.

13. As to the grounds for non-renewal identified in the Notice of Intent, Ms. Henderson admitted when she testified at the final hearing that the two-year-old wandered off the property without supervision on October 26, 2017. Although Ms. Henderson did not state that she agreed with the ratio violations cited during the inspections that occurred on August 1, 2017, and September 27, 2017, she acknowledged that she received notice of them and offered no evidence to contest these ratio violations at the final hearing.

14. For all of these reasons, the undersigned finds that Ms. Henderson has a history of multiple violations during the operation of Little Kings and Queens child care center, as stipulated to in the Settlement Agreement, and as charged in the Notice of Intent.

Beautiful Angels Academy

15. The Department contends that Ms. Henderson owned and operated a child care facility under the name Beautiful Angels Academy, also located at 800 West Central Boulevard in Orlando, Florida, after she surrendered the child care facility license for Little Kings and Queens.

16. The record owner of Beautiful Angels Academy was Kim Holman, Ms. Henderson’s mother. The Department contends that Ms. Holman was the owner in name only, and that Ms. Henderson was the real owner and operator of Beautiful Angels Academy.

17. Ms. Henderson testified that she volunteered to work part-time at Beautiful Angels Academy and that Ms. Holman also paid her a consultant fee, but denies that she owned or operated Beautiful Angels Academy. The Department's evidence to the contrary is based largely on hearsay, primarily statements made from unidentified employees of Beautiful Angels Academy to Department child protective investigators. The Department also relies on the fact that Ms. Henderson was found on site at Beautiful Angels Academy during a complaint inspection on February 13, 2019. Ms. Henderson testified that she was on the premises because her children received day care at Beautiful Angels Academy.

18. This evidence falls short of establishing that Ms. Henderson was the real owner and operator of Beautiful Angels Academy, and the history of violations committed in the operation of Beautiful Angels Academy is not a proper additional reason to deny the license application Ms. Henderson submitted for Parramore Christian Academy.

CONCLUSIONS OF LAW

19. The Division of Administrative Hearings has jurisdiction over the parties and the subject of this proceeding, pursuant to sections 120.569 and 120.57(1).

Burden of Proof

20. The Respondent has the ultimate burden to prove entitlement to the license applied for by a preponderance of the evidence. *Dep't of Transp. v. J. W. C. Co.*, 396 So. 2d 778 (Fla. 1st DCA 1981); and § 120.57(1)(j), Fla. Stat. But because the Department has alleged that the license sought here should be denied because the applicant is unfit due to a history of multiple violations, the Department must prove unfitness by a preponderance of the evidence. *Dep't of Child. & Fams. v. Davis Fam. Day Care Home*, 160 So. 3d 854, 857 (Fla. 2015); *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932, 934 (Fla. 15 1996).

21. Section 402.310(1)(a) authorizes the Department to impose any of the following disciplinary sanctions for a violation of sections 402.301 through 402.319 or the rules adopted thereunder: administrative fines, probationary license status, license suspension, or license revocation. When assessing whether to grant or deny an initial application for a child care center facility license, the Department may consider any history of previous violations. § 402.310(1)(b)3., Fla. Stat.

22. Florida Administrative Code Rule 65C-22.001(5)(a), provides:

Direct supervision means actively watching and directing children's activities within the same room or designated outdoor play area, and responding to the needs of each child. Child care personnel at a facility must be assigned to provide direct supervision to a specific group of children, and be present with that group of children at all times. When caring for school-age children, child care personnel shall remain responsible for the supervision of the children in care, shall be capable of responding to emergencies, and are accountable for children at all times, including when children are separated from their groups.

Ms. Henderson admitted in the Settlement Agreement that two supervision rule violations were committed when she operated Little Kings and Queens. She also agreed that the Department was not required to re-prove these two supervision rule violations in any subsequent administrative proceeding.

23. A violation of the supervision rule was also charged in the Notice of Intent due to the incident involving the two-year-old boy who left Little Kings and Queens, unsupervised, on October 26, 2017. The supervision rule was amended on October 25, 2017, as follows:

(a) Children that are delivered to a location offsite from the facility by someone other than the parent or guardian become the responsibility of the child care program at that designated location and time as agreed upon by the provider and the parent/guardian. The provider is responsible for the

supervision of the child upon the child's arrival at the designated point. If a child is not present at the time of pick-up, prior to leaving the designated location, child care personnel must verify the whereabouts of the child.

(b) Direct supervision means actively watching and directing children's activities within the same room or designated outdoor play area, during transportation, any activity outside of the facility, and responding to the needs of each child while in care. Child care personnel at a facility must be assigned to provide direct supervision to a specific group of children, and be present with that group of children at all times.

Fla. Admin. Code R. 65C-22.001(5)(a) (2017). Because Ms. Henderson was served with the Notice of Intent and elected to surrender the Little Kings and Queens license instead of contest this charge, the Department established that a Class I violation of the supervision rule, as amended, occurred when a two-year-old left Little Kings and Queens, unsupervised, on October 26, 2017.

24. The ratio requirements for child care centers cited in the Administrative Complaint and Notice of Intent are found in rule 65C-22.001(4) (2016):

(4) Ratios.

(a) The staff-to-child ratio, as established in Section 402.305(4), F.S., is based on primary responsibility for the direct supervision of children, and applies at all times while children are in care.

(b) Mixed Age Groups.

1. In groups of mixed age ranges, where children under one year of age are included, one staff member shall be responsible for no more than four children of any age group, at all times.

2. In groups of mixed age ranges, where children one year of age but under two years of age are included, one staff member shall be responsible for no more than six children of any age group, at all times.

(c) For every 20 children, a child care facility must have one (1) credentialed staff member pursuant to Section 402.305(3), F.S.

25. In the Settlement Agreement, Ms. Henderson admitted that five Class II violations were committed in violation of this rule when she operated Little Kings and Queens. The Department established that two more Class II ratio rule violations occurred after the Settlement Agreement was executed, when Little Kings and Queens was still on probation, because Ms. Henderson surrendered the Little Kings and Queens license instead of contesting these charges in the Notice of Intent. These violations became final and have been proven in this proceeding.

26. The Notice of Intent asserts that an act of child abuse or neglect was committed by an operator or employee of Little Kings and Queens when the two-year-old boy left the facility, unsupervised, on October 26, 2017. The Notice of Intent cites rule 65C-22.001(11)(a) for this violation. It is reasonable to infer that allowing a two-year-old boy to leave a child care facility, unsupervised, constitutes child neglect. However, rule 65C-22.001(11)(a) was eliminated from this rule when it was amended on October 25, 2017, the day before this incident occurred. Nevertheless, Ms. Henderson did not request a hearing, and this charge became final. If she had contested this charge, the Department could have filed an amended Notice of Intent to cite to the new authority to charge child neglect for this incident. The Class I violation of child neglect has been proven in this proceeding.

27. The Notice of Intent asserts that section 402.319(1)(f), Florida Statutes (2017), was violated when Ms. Henderson provided false information to law enforcement about the circumstances under which the two-year-old

boy left the Little Kings and Queens on October 26, 2017. Section 402.319(1)(f) provides penalties for the following acts:

(f) Make any other misrepresentation, by act or omission, regarding the licensure or operation of a child care facility or family day care home to a parent or guardian who has a child placed in the facility or is inquiring as to placing a child in the facility, or to a representative of the licensing authority, or to a representative of a law enforcement agency, including, but not limited to, any misrepresentation as to:

1. The number of children at the child care facility or the family day care home;
2. The part of the child care facility or family day care home designated for child care;
3. The qualifications or credentials of child care personnel;
4. Whether a family day care home or child care facility complies with the screening requirements of s. 402.305; or
5. Whether child care personnel have the training as required by s. 402.305.

Having proven that Ms. Henderson failed to request a hearing to contest the Notice of Intent, the violation of section 402.319(1)(f) has also been established here.

28. Ms. Henderson chose to not contest the non-renewal of the Little Kings and Queens child care facility license. Having done so, the violations alleged in the Notice of Intent became final, as did the non-renewal and fines totaling \$1,700; fines which remain unpaid to date. The multiple violations charged in the Notice of Intent were sufficient to deny Ms. Henderson the renewal of the Little Kings and Queens child care facility license.

Ms. Henderson cannot avoid the finality of that result by filing an application for a new child care facility license through a different entity.

29. The Department has proven that the applicant for child care license in this case is unfit due to the history of multiple violations committed in the operation of Little Kings and Queens in 2015 and 2017.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Children and Families enter a final order denying the application for a child care facility license that Ms. Henderson filed for Parramore Christian Academy.

DONE AND ENTERED this 16th day of July, 2020, in Tallahassee, Leon County, Florida.



BRIAN A. NEWMAN
Administrative Law Judge
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Filed with the Clerk of the
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this 16th day of July, 2020.

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.