



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF INSPECTOR GENERAL**

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Inspection Report

Provider Name: New Creation Child Care LLC	Provider Information	License No: L383153
Provider Address: 1037 Industry Road, Lexington, KY, 40505	Provider Type: LICENSED TYPE I	Capacity: 126
Owner(s): New Creation Child Care LLC		Director(s): Murphy, Erika Lashea

Inspection Type: Complaint Investigation	Inspection Information	Inspection No: 216649
Date Initiated: 08/09/2016 9:10 AM	Date Concluded: 08/09/2016 1:30 PM	
	No. of Children Present: 83	

Inspection Report	
Staffing Requirements	Not In Compliance
40 - Ratios and Group Size	Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.

(2) Minimum staff-to-child ratios and group size for an operating child-care center shall be maintained as follows:

Age of Children Ratio Maximum Group Size*

Infant

1 staff for 5 children 10

Toddler

1 staff for 6 children 12

Preschool-age 2 to 3 years

1 staff for 10 children 20

Preschool-age 3 to 4 years

1 staff for 12 children 24

Preschool-age 4 to 5 years

1 staff for 14 children 28

School-age 5 to 7 years

1 staff for 15 children 30

School-age 7 and older

1 staff for 25 children

(for before and after school) 30

1 staff for 20 children

(full day of care) 30

***Maximum Group Size shall be applicable only to Type I child-care centers.**

Findings:

General: Based on observation during the investigation, the facility failed to maintain staff-to-child ratios as required by the regulations. At approximately 10:15 a.m. on 8/9/16, the surveyor entered the school age area. The surveyor found that one (1) school age classroom located upstairs was out of ratio by a total of twelve (12) children. The surveyor noted that there were twenty-seven (27) children with one (1) female staff person. The staff person identified herself and stated that the children were ages five to twelve (5-12) years old. The surveyor noted that there were two (2) defined classrooms upstairs with a half wall dividing the rooms. The surveyor observed five (5) children with a male staff on the other side of the half wall in the other classroom. At approximately 11:10 a.m., the surveyor returned to the school age area again and observed eighteen (18) children ages five to twelve (5-12) years old in the female staff person's classroom and the male staff person had fourteen (14) children ages five to twelve (5-12) years old in his classroom. The female staff person's classroom was now over ratio by three (3) children. The surveyor asked the Director if the school age classrooms were considered as one large school age classroom or were the classrooms considered as two (2) separate classrooms. The Director stated, "The rooms are two (2) separate rooms. The younger schoolagers are in one (1) room and the older school agers are in the other room."

Inspection Report**Director Requirements****Not In Compliance****265 - Health, Safety, Comfort****Not In Compliance****922 KAR 2:110. Section 4. Director Requirements and Responsibilities.**

- (1) Effective with the adoption of this administrative regulation, a director shall:**
(I) Provide for the health, safety, and comfort of each child;

Findings:

General: Based on observation, interviews, and review of documentation, the facility director failed to provide for the health, safety, and comfort of each child present in the school age classrooms on 8/4/16. The surveyor, a DCBS representative, and a Detective with the Crimes Against Children unit conducted a joint investigation that consisted of interviews with children, parents, and staff that were involved or affected by the alleged incident. During the investigation it was revealed that on 8/4/16 at approximately 4:00 p.m., two (2) male staff told the school age children that in order to get a yogurt they had to either get a "smack" on their leg or a "smack" on their hand. During interviews with the male staff at the police station the "game" was called "Smack for a Snack". A ten (10) year old female and a seven (7) year old male received red marks and bruising to the backs of their legs (upper calves) as a result of this incident. The surveyor, DCBS representative, and the Detective found during a home visit conducted on 8/9/16 that the children still had discoloration and bruising on their legs as a result of being struck by an object. During interviews with the children the following was found: the female child stated, "The teacher said if you want a yogurt, you have to stand up to get hit on the hand or the leg. Everyone lined up to get a hit. Some kids were crying about it." The children described the object as brown (the color of wood) and approximately twelve (12) inches in length. The female child said that she was hit once on her leg and once on her hand. The seven (7) year old said, "You had to get a hit to get a snack. Everybody at the day care got hit." Another seven (7) year old male said, "One day we got smacked with a hard stick for a snack. Sometimes it was on the leg and sometimes it was on the hand. Everyone that wanted a snack got hit; it hurt." A nine (9) year old child said, "I didn't even want a snack, but he hit me anyway." One (1) of the male staff confirmed he hit the children with a ruler and implied that it was just a game. The Detective asked him how many kids were hit and he replied, "Definitely twenty plus kids. But, not everybody got hit." The other male staff person involved told the Detective that his strikes were only on the palms of the children's hands while the other male staff struck the children on their calves. He told the Detective that the other male staff came up with game "smack for a snack". It is important to note that the Director was informed about the incident the evening of 8/4/16. She stated, "I was told that the schoolagers were playing a game with rulers and two (2) kids got actual marks on them from the rulers. The children's mother called me and told me she had pictures." Yet, on 8/9/16 the surveyor found that the male staff involved in striking the children on their legs was working with the school age children. Further on 8/9/16, that same male staff received a citation of second degree assault.

Findings:

General: Based on observation, interviews, and review of documentation, the facility director failed to provide for the health, safety, and comfort of each child present in the school age classrooms on 8/4/16. The surveyor, a DCBS representative, and a Detective with the Crimes Against Children unit conducted a joint investigation that consisted of interviews with children, parents, and staff that were involved or affected by the alleged incident. During the investigation it was revealed that on 8/4/16 at approximately 4:00 p.m., two (2) male staff told the school age children that in order to get a yogurt they had to either get a "smack" on their leg or a "smack" on their hand. During interviews with the male staff at the police station the "game" was called "Smack for a Snack". A ten (10) year old female and a seven (7) year old male received red marks and bruising to the backs of their legs (upper calves) as a result of this incident. The surveyor, DCBS representative, and the Detective found during a home visit conducted on 8/9/16 that the children still had discoloration and bruising on their legs as a result of being struck by an object. During interviews with the children the following was found: the female child stated, "The teacher said if you want a yogurt, you have to stand up to get hit on the hand or the leg. Everyone lined up to get a hit. Some kids were crying about it." The children described the object as brown (the color of wood) and approximately twelve (12) inches in length. The female child said that she was hit once on her leg and once on her hand. The seven (7) year old said, "You had to get a hit to get a snack. Everybody at the day care got hit." Another seven (7) year old male said, "One day we got smacked with a hard stick for a snack. Sometimes it was on the leg and sometimes it was on the hand. Everyone that wanted a snack got hit; it hurt." A nine (9) year old child said, "I didn't even want a snack, but he hit me anyway." One (1) of the male staff confirmed he hit the children with a ruler and implied that it was just a game. The Detective asked him how many kids were hit and he replied, "Definitely twenty plus kids. But, not everybody got hit." The other male staff person involved told the Detective that his strikes were only on the palms of the children's hands while the other male staff struck the children on their calves. He told the Detective that the other male staff came up with game "smack for a snack". It is important to note that the Director was informed about the incident the evening of 8/4/16. She stated, "I was told that the schoolagers were playing a game with rulers and two (2) kids got actual marks on them from the rulers. The children's mother called me and told me she had pictures." Yet, on 8/9/16 the surveyor found that the male staff involved in striking the children on their legs was working with the school age children. Further on 8/9/16, that same male staff received a citation of second degree assault.

Programming**Not In Compliance****350 - Program of Activities Followed****Not In Compliance****922 KAR 2:120. Section 2. Child Care Services.****(4) The child-care center shall provide a daily planned program:**

- (a) Posted in writing in a conspicuous location with each age group and followed;**
(b) Of activities that are individualized and developmentally appropriate for each child served;
(c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and
(d) That offers a variety of creative activities including the following:
- 1. Art;**
 - 2. Music;**
 - 3. Dramatic play;**
 - 4. Stories and books;**
 - 5. Science;**
 - 6. Block building;**
 - 7. Tactile activity;**
 - 8. Culture;**
 - 9. Indoor or outdoor play in which a child makes use of both small and large muscles;**
 - 10. A balance of active and quiet play, including group and individual activity;**
 - 11. An opportunity for a child to:**
 - a. Have some free choice of activities;**
 - b. If desired, play apart from the group at times;**

Findings:

General: Based on interviews, observation, and review of documentation, it was confirmed that the child care center staff and the director failed to follow the daily planned program of activities and participate in developmentally appropriate activities. Instead, an developmentally inappropriate activity called "Smack for a Snack" was conducted with a group of school-age children. Based on interviews, on 8/4/16 at approximately 4:00 p.m. two (2) male staff struck school age children either on the back of their calves or the palm of their hands in order to get a snack. One of the male staff involved identified this action as a "game" and labeled it "Smack for a Snack." Two (2) children ages ten (10) and seven (7) received red marks and bruising as a result of being struck on their legs by the ruler. Based on observation on 8/9/16, both children still had some discoloration and bruising to their legs. It was reported that everyone present in the school age classroom had to line up to receive a "smack" in order to get a yogurt. One (1) child said that he did not want a snack, but was hit anyway. It is important to note that on 8/9/16 one of the male staff involved was cited for second degree assault as a result of this incident. The "Smack for a Snack game" is not an appropriate game to play with children. It was reported that some children were crying and scared.

385 - Discipline

Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.**(10) A child shall not be subjected to:**

- (a) Corporal physical discipline pursuant to KRS 199.896(18);**
- (b) Loud, profane, threatening, frightening, or abusive language; or**
- (c) Discipline that is associated with:**
 - 1. Rest;**
 - 2. Toileting; or**
 - 3. Food.**

Findings:

General: Based on interviews, observation, and review of documentation, it was confirmed that the child care center staff and the director failed to assure compliance with this regulation. Based on interviews, on 8/4/16 at approximately 4:00 p.m. two (2) male staff struck multiple school age children either on the back of their calves or the palm of their hands in order to get a snack. One of the male staff involved identified this action as a "game" and labeled it "Smack for a Snack." Two (2) children ages ten (10) and seven (7) received red marks and bruising as a result of being struck on their legs by the ruler. Based on observation on 8/9/16, both children still had some discoloration and bruising to their legs. It was reported that everyone present in the school age classroom had to line up to receive a "smack" in order to get a yogurt. One (1) child said that he did not want a snack, but was hit anyway. It is important to note that on 8/9/16 one of the male staff was cited for second degree assault as a result of this incident.

Premises

Not In Compliance

480 - Premises Requirements

Not In Compliance

922 KAR 2:120. Section 4. Premises Requirements.**(1) The premises shall be:**

- (a) Suitable for the purpose intended;**
- (b) Kept clean and in good repair;**

Findings:

General: Based on Observation at the day care facility on 8/9/16 at approximately 9:10 a.m., the surveyor noticed that a store-front window was shattered. The glass was still intact. The surveyor inquired about the window. A female staff person stated, "That happened last week. A child was playing and knocked another child into the window." She stated, "I wasn't here because I leave at 11:00 a.m. but my daughter was still here. I was told that it was like a domino effect. My daughter fell into a child and he fell into the window." The surveyor asked who was present in the room when it happened. She identified two (2) male staff. The surveyor asked one of the male staff who was identified as being present when the window was shattered, what happened to the window. He told the surveyor that the female staff's daughter knocked a male child into the window. The surveyor asked what time of day the incident occurred. He stated, "Around 11:00 a.m. or 12:00 p.m." It was also revealed that the incident occurred on 8/4/16.

Written Documentation

Not In Compliance

1095 - Daily Attendance Records

Not In Compliance

922 KAR 2:110. Section 3. Records.**(1) A child-care center shall maintain:**

- (c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the child-care center through the Child Care Assistance Program;**

Findings:

General: Based on Review of Documentation, the child care daily attendance records presented for review dated for 7/31/16 through 8/6/16 were found to be incomplete and not documented in accordance with KRS 13A.130 which requires the document to be signed weekly by a parent or a designated person to verify accuracy of a child's attendance for the week. There were no parent or designee signatures on the documentation. Additionally, per the documentation, nineteen (19) children were signed into the facility on 8/5/16 but were not signed out of the facility. Furthermore, based on interview, two (2) children were picked up at different times on 8/4/16 by two (2) different designees. One (1) child was picked up at approximately 4:30 p.m. and the other child was picked up at approximately 5:30 p.m. However, according to the child daily attendance documentation presented for review, the children were both signed out at 4:40 p.m. The document is initialed by the owner of the facility.

Signature of
Provider/Representative

Title

Date