



**MISSOURI DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION  
OFFICE OF CHILDHOOD - CHILD CARE COMPLIANCE**

**COMPLAINT INVESTIGATION OF  
SUBSTANTIATED STATUTE OR RULE VIOLATIONS**

**DATE OF REPORT**  
8/24/2020

**DVN**  
002791653

**FACILITY NAME**

GINA'S DAYCARE LEARNING ACADEMY LLC

**FACILITY ADDRESS**

91B ICHORD AVE

**CITY**

WAYNESVILLE

**ZIP CODE**

65583-5405

**PHONE NUMBER**

(573) 774-7899

**COUNTY**

PULASKI

**ASSIGNED SPECIALIST**

KOETTING, SHELBY N

**RULE/STATUTE VIOLATION(S)**

**VIOLATION(S)**

19 CSR 30-63.020 (1)

Prior to the employment or presence of a child care staff member in a family child care home , group child care home, child care center, or license-exempt facility not exempted by section 210.1080.13, RSMo, the child care provider shall request the results of a criminal background check for such child care staff member from the department .

19 CSR 30-62.122 (1)(A)

All persons working in a day care facility in any capacity during child care hours, including volunteers counted in staff/child ratios, shall be in good physical and emotional health with no physical or mental conditions which would interfere with child care responsibilities. These persons shall have a medical examination report, signed by a licensed physician or registered nurse who is under the supervision of a licensed physician, on file at the facility at the time of initial licensure or within thirty (30) days following employment.

19 CSR 30-62.122 (1)(B)

Medical examination reports shall include a "Risk Assessment for Tuberculosis" form, included herein, completed and signed by a health care professional, as provided by the Missouri Department of Health and Senior Services (MDHSS). If the person has signs or symptoms of tuberculosis, or risk factors for tuberculosis, then testing for tuberculosis shall occur.

19 CSR 30-62.102 (1)(J)

The child care provider shall ensure that within seven (7) days of employment or volunteering and before being left alone with children that caregivers receive a facility orientation. The child care provider shall ensure that documentation verifying completion of the facility orientation is maintained and on file for review by the department for each caregiver. The facility orientation shall include:

19 CSR 30-62.102 (1)(J)(1)

A tour of the facility, indoors and outdoors; and

19 CSR 30-62.102 (1)(J)(2)

A review of the following:

19 CSR 30-62.102 (1)(J)(2)(A)

Licensing rules;

19 CSR 30-62.102 (1)(J)(2)(B)

The facility's license and its limitations, if any;

19 CSR 30-62.102 (1)(J)(2)(C)

The facility's written child care practices, including procedures for medication administration, child illness, discipline, and guidance policies;

19 CSR 30-62.102 (1)(J)(2)(D)

The daily schedule;

19 CSR 30-62.102 (1)(J)(2)(E)

The assigned duties and responsibilities of staff;

19 CSR 30-62.102 (1)(J)(2)(F)

The names and ages of the children for whom the staff member will be responsible , including any special health, nutritional or developmental needs;

19 CSR 30-62.102 (1)(J)(2)(G)

The location of children's records

19 CSR 30-62.102 (1)(J)(2)(H)

The facility's safe sleep policy, if applicable;

19 CSR 30-62.102 (1)(J)(2)(I)

The facility's disaster emergency plan and the location of emergency information; and

19 CSR 30-62.102 (1)(J)(2)(J)

The mandated responsibility to report any suspected child abuse or neglect to the Children's Division at the toll-free number 1-800-392-3738 or online at [https://apps.dss.mo.gov/OnlineCanReporting /default.aspx](https://apps.dss.mo.gov/OnlineCanReporting/default.aspx).

19 CSR 30-62.102 (1)(K)

The child care provider shall ensure that documentation of caregiver completion of the facility orientation is maintained and on file for review by the department.

19 CSR 30-62.102 (1)(L)

The provider shall request the results of a criminal background check for child care staff members as required by 19 CSR 30-63.020 General Requirements.

19 CSR 30-62.102 (1)(M)

Child care staff members shall have qualifying background screening results on file as required by 19 CSR 30-63.020 General Requirements.

19 CSR 30-62.102 (1)(O)

A prospective child care staff member may begin work for a child care provider after the criminal background check has been requested from the department; however, pending completion of the criminal background check, the prospective child care staff member shall be supervised at all times by another child care staff member who received a qualifying result on the criminal background check within the past five (5) years.

19 CSR 30-62.102 (4)(C)

The center director, group child care home provider, all other caregivers, and those volunteers who are counted in staff/child ratios shall complete safe sleep training described in section (4) of this rule within thirty (30) days of employment or volunteering at the facility.

**CONCLUSION SUMMARY**

Based on observation by CCFS Koetting and statements made by facility owner, Gina Esguerra, staff members at Gina's Daycare Learning Academy do not have all required paperwork on file within the amount of days allotted for the grace period during the new hire process. Five staff members did not have background screening results on file; three of those were working without having results on file the day of the inspection and one was working without having results on file and without supervision by a staff member who did have their results on file the day of the inspection. Two staff members were missing Family care Safety Registry screenings. One staff member was missing a receipt for fingerprinting for the Comprehensive Criminal Background Check process. Three staff members had not completed a medical exam and TB Risk Assessment form within the 30 day grace period. Three staff members had not completed Safe Sleep training within the 30 day grace period. Two staff members had not completed the New Employee Orientation within the 7 day grace period. However, six staff members had current CPR/First Aid training on file to meet requirements.

**VIOLATION(S)**

19 CSR 30-62.042 (2)(V)

The number and ages of children the facility is authorized to have in care at any one (1) time shall be specified on the license and shall not be exceeded except as permitted within these rules.

19 CSR 30-62.042 (2)(W)

All day care provided on the premises of a licensed facility shall be in compliance with the licensing rules and the conditions specified on the license.

**CONCLUSION SUMMARY**

This allegation will be substantiated due to evidence found that supports the violation that Child B, age 7, was enrolled in the facility for one week under the emergency school closing procedure during the COVID-19 Pandemic. According to facility owner, Gina Esguerra, Child B was enrolled at the facility for one week under the emergency school closing procedure. Ms. Esguerra assumed they could enroll students outside of the ages served on their license because of how she interpreted the Emergency School Closing Procedure set forth by the Department, but this is incorrect. Staff member, Bethany Kinder, confirmed that Child B has been at the facility for one week and was present at time of inspection.

**CORRECTIVE MEASURES**

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The owner and director shall create a plan to ensure all department required forms are on file and accurately completed, including the Comprehensive Background

**COMPLETED (Y/N)**

Yes

**COMPLETED DATE**

11/9/2020

Screening eligibility letter, medical exam, TB Risk Assessment, safe sleep training documentation, CPR/First Aid training documentation, the New Employee Orientation checklist, and any other applicable form, for each newly hired employee. A copy of this plan shall be provided to the Section for Child Care Regulation.

**CORRECTIVE MEASURE**

The facility shall ensure that the conditions and limitations specified on the license, including age range, are adhered to at all times. The facility must provide the Section for Child Care Regulation with a statement, signed by all staff members and volunteers, to indicate they understand and agree to follow the requirements. A copy of the signed statements shall be provided to the Section for Child Care Regulation.

**COMPLETED (Y/N)**

Yes

**COMPLETED DATE**

11/9/2020

**CORRECTIVE MEASURE**

The owner and director shall review all staff files to ensure all department required forms are on file and accurately completed, including the Comprehensive Background Screening eligibility letter, medical exam, TB Risk Assessment, safe sleep training documentation, CPR/First Aid training documentation, the New Employee Orientation checklist, and any other applicable form. The files must be maintained and present at the facility at all times. A written statement to indicate that this task was completed shall be provided to the Section for Child Care Regulation.

**COMPLETED (Y/N)**

Yes

**COMPLETED DATE**

11/9/2020

**DISPOSITION**

SUBSTANTIATED

**DISPOSITION DATE**

10/26/2020

**APPROVING SUPERVISOR**

TODARO, KAYLA