



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

COMPLAINT INVESTIGATION OF
SUBSTANTIATED STATUTE OR RULE VIOLATIONS

DATE OF REPORT
9/28/2023

DVN
000705919

FACILITY NAME

EAST MISSOURI ACTION AGENCY, INC.

FACILITY ADDRESS

400 STATE HIGHWAY 34 EAST

CITY

MARBLE HILL

ZIP CODE

63764

PHONE NUMBER

(573) 238-3652

COUNTY

BOLLINGER

ASSIGNED SPECIALIST

GRAHAM, JESSICA

RULE/STATUTE VIOLATION(S)

VIOLATION(S)

5 CSR 25-500.182(1)(A)1.

Caregivers shall not leave any child without competent adult supervision.

5 CSR 25-500.182(1)(A)3.

Caregivers shall provide frequent, direct contact so children are not left unobserved on the premises.

5 CSR 25-500.102(1)(J)

All staff shall acquaint themselves with the child abuse and neglect law and shall make a report of 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>.

5 CSR 25-500.222(3)

Health information shall be retained in each child's individual file and shall include:

5 CSR 25-500.222(3)(D)

Any significant information learned from observing the child.

CONCLUSION SUMMARY

Compliance Inspector Jessica Graham investigated the allegation that on September 27, 2023, at approximately 10:00 a.m. Child A (age 4) and Child B (age 3) were seen under a table with their pants down performing sexual acts. The staff in the room were caregivers Faith Agbayani and Whitney Gamblin and they were not supervising the children when this occurred. The allegation is substantiated based on the following information.

5 CSR 25-500.222(3). which states: "Health information shall be retained in each child's individual file and shall include:"
AND

5 CSR 25-500.222(3)(D). which states: "Any significant information learned from observing the child."

On October 2, 2023, director Barbara Bilek stated that there is no written documentation about the incident that occurred on September 27, 2023, on file. There was another incident that Child A had pulled his pants down and the caregivers had to pull them up. There are physical aggression issues with Child A. Over the last few weeks, Child A had been taking his clothes off daily.

On October 2, 2023, caregiver Whitney Gamblin stated that Child A takes his clothes off daily. Child A took his clothes off two weeks ago and then it kind of faded off for a while. Child A took his pants off and ran around. Child A would ask the kids "do you want to play with it", referring to his penis. There is no documentation written or kept on file about Child A's behaviors though. They were just getting ready to start documenting his behaviors in a notebook before the incident on September 27, 2023, occurred.

On October 2, 2023, Parent B (parent of Child B and caregiver at the facility) stated that neither caregiver told her anything about what happened on September 27. There was no written report given to her for any of the incidents.

5 CSR 25-500.182(1)(A)1. which states: "Caregivers shall not leave any child without competent adult supervision."

AND

5 CSR 25-500.182(1)(A)3. which states: "Caregivers shall provide frequent, direct contact so children are not left unobserved on the premises."

On October 2, 2023, director Barbara Bilek stated that she was aware of an incident occurring with Child A and Child B on September 27, 2023. Whitney told her that there was an incident that was sexual in nature. Barbara reviewed video footage the next day and saw an incident occur between Child A and Child B while in the care of Whitney Gamblin and Faith Agbayani. Child A and Child B were under a table with their pants off, performing sexual acts, unsupervised for approximately 4 minutes before a caregiver intervened. Faith had been written up before for lack of supervision of the children and Barbara felt this was the same type of scenario.

On October 2, 2023, caregiver Whitney Gamblin stated that the day of the incident, the classroom did not have good management and the kids kept climbing over the half door. At one point, Faith told her that Child A and Child B were under the table. She walked over to the table and saw what Child A and Child B were doing. They both had their pants down and Child A was touching Child B on her vagina with his hands. She said "what is going on" and told Child B to get up. Child A then started smacking Child B's vagina. Child B climbed out and pulled her pants up. She had to get under the table and get Child A out and pull his pants up for him. She was holding Child A's hands and walking with him and he pulled down his pants again with his legs. She put his pants back on him again. She asked Child A why he was doing that and he said he didn't know. They started cleaning up the room and she yelled at Lisa and Barbara for a break but didn't tell either of them what had happened.

On October 2, 2023, Parent B (parent of Child B and caregiver at the facility) stated that on September 29, 2023, Child B told her that Child A pulled her pants down and played with her butt. Child B said it made her mad. She was aware of something similar and inappropriate happening before under a blanket but doesn't think anything was really done about the last instances with Child A pulling his pants down and Child A and Child B being found under a blanket.

On October 2, 2023, CI Graham observed video footage of Classroom B from September 27, 2023. The video is zoomed in to focus on the children under the table. Director Barbra Bilek was present and showing the video. Video A shows the back of Classroom B. The video is not time stamped but is approximately 3 minutes and 45 seconds long. The following events were documented in chronological order as they were observed on the video footage:

- Child B is seen crawling from the shelf to the table, fully clothed at this time.
- Child A follows and is seen pulling his shorts up as he moves under the table.
- Child A pulls his shorts down to his knees.
- An unknown child climbs under the table and another unknown child is looking under the table.
- Both of those unknown children leave the table area.
- Child A removes his shorts and Child B tosses them to the side.
- Child A rolls over on his side while Child B lays down next to him.
- The table blocks the view of the children but Child A and Child B move to face each other.
- Child A pulls Child B closer to him.
- Child B has her pants and underwear down.
- Child A lays on top of Child B with his head in Child B's pelvic area.
- Child A rolls off of Child B.
- Child B pulls her pants down further to her ankles and Child A is touching Child B's vagina.
- Child B lays back down
- Child A places his hand on Child B's vagina and lays his head on Child B's chest.
- Child A climbs on top of Child B, straddling her, both with their pants off.
- Child A moves off of Child B.
- Child A touches Child B's vagina.
- Another unknown child walks up to the table blocking the view of Child A and Child B.
- Whitney walks up to the table, bends down, and says something to the children.
- Child A runs out from under the table with his shorts still off.
- Child B is under the table with her pants still down at her ankles.
- Child B climbs out from under the table towards Whitney and pulls her underwear and pants up and they walk off screen.

On October 2, 2023, CI Graham observed additional video footage of Classroom B from September 27, 2023. Video B is not time stamped but is approximately 4 minutes and 41 seconds long and shows the entire classroom. The following events were documented in chronological order as they were observed on the video footage:

- Faith is sitting in the corner of the room and Whitney is at the half door of the classroom.
- 11 children are visible at the start of the video with Child A and Child B behind a shelf.

- The floor of the room is covered in toys and there are chairs tipped over.
- Two children are standing on top of a toy shelf and one child is climbing inside a shelf .
- One child is moving around a shelf that is on wheels.
- Whitney walks over to the two children standing on the shelf, one child gets down then climbs back on.
- Whitney grabs the shelf the child is moving around and repositions it.
- The children climb down off the shelf and run under a table .
- Children are running around the room.
- A child throws something over the half door of the classroom and then climbs over the door .
- Whitney walks towards the half door and the child climbs completely over the door.
- Whitney walks out of the classroom to the child that climbed over the door.
- Whitney carries the child into the room by his hands, holding him up off the ground.
- The same child throws something over the half wall and attempts to climb up the wall.
- Whitney stands at the half door.
- A child climbs on top of the empty bookshelf next to Faith .
- Whitney walks to the back of the room and addresses Child A and Child B who have been under the table during the length of the video footage.
- Child A runs out without his pants on and sits on the carpet .
- Another child is still standing on the bookshelf.
- Faith is sitting in the chair with a group of kids and Whitney is getting Child B out from under the table.
- Child A walks up to Faith without his pants on .
- Child A tries to take his shirt off and falls on the carpet, rolling around with his pants off.
- Whitney puts Child A's underwear and pants back on.
- Whitney then addresses the child standing on the bookshelf.
- The child remains on shelf.
- Whitney sits down in a chair and the child beside her kids a book.
- Child A runs across the room and hides behind a shelf again then climbs under the table .
- Whitney walks back to the table.

On October 4, 2023, caregiver Faith Agbayani stated that on September 27, 2023, it was the worst the classroom behaviors had ever been. She knows that she should have caught things sooner. When she did finally see Child A and Child B under the table, she pointed for Whitney to get them.

5 CSR 25-500.102(1)(J) which states: "All staff shall acquaint themselves with the child abuse and neglect law and shall make a report of 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>."

On October 2, 2023, Parent B (parent of Child B and caregiver at the facility) stated that she was not sure about reporting child abuse and neglect hotlines. She thought staff had to talk to the supervisor if they suspected child abuse or neglect and didn't know she should report it.

On October 4, 2023, Faith Agbayani stated she knows what a mandated reporter is, if you see something you tell your manager.

CORRECTIVE MEASURES

CORRECTIVE MEASURE		COMPLETED (Y/N)	COMPLETED DATE
The facility shall notify all staff members of the violations which were substantiated, and specify the actions to be taken by all staff in order to comply with all violations cited. A copy of the memo, letter, or staff meeting agenda shall be submitted to the Office of Childhood.		Yes	11/9/2023
DISPOSITION		DISPOSITION DATE	
SUBSTANTIATED		10/31/2023	
APPROVING SUPERVISOR			
CHRISCO, MARLA L			