



08/30/2022

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Devin Hamilton, Legal Assistant

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

BP HEALY INVESTMENTS, INC., :
Petitioner, :
v. : Docket No.: 2219634
: 2219634-OSAH-DECAL-CCLC-78-Schroer
: :
GEORGIA DEPARTMENT OF EARLY :
CARE AND LEARNING, :
Respondent. : :
: :

INITIAL DECISION

I. INTRODUCTION

Petitioner BP Healy Investments, Inc., d/b/a Bright Beginnings of Jefferson, appealed a decision by the Georgia Department of Early Care and Learning (Respondent or “DECAL”) to revoke Petitioner’s license to operate a child care learning center. A hearing was held on June 28, 2022, before the undersigned administrative law judge. Petitioner was represented by Deborah Ausborn, Esq. and Thomas Rawlings, Esq. Cynthia Strong McCarthy, Esq. represented Respondent. The record remained open for the parties to file post-hearing briefs. Based on the evidence in the record and the legal conclusions set forth below, the Court hereby **AFFIRMS** Respondent’s decision.

II. FINDINGS OF FACT

1.

Bright Beginnings of Jefferson (the “Center”) is a licensed child care learning center (“CCLC”) in Jefferson, Georgia. Paula Healy is the Center’s Director, and she and her husband, Bob Healy, were the owners of the Center for about five years.¹ Both the Healys were active in the management of the Center, and Ms. Healy, as the Director, was generally responsible for the

¹ Mr. Healy passed away unexpectedly during the pendency of this appeal.

Center's day-to-day operations. In the last half of 2021, however, Ms. Healy had a number of medical problems, including an extended hospitalization, and was not routinely on site at the Center for several months. She did have access to the Center's video monitoring system through her computer, which she reviewed periodically.² During her absence, in August 2021, one of the Center's assistant directors hired an eighteen-year-old high school student named Alex Tredway as a part-time teacher in one of the Center's six after-school classrooms. Mr. Tredway, like all CCLC employees, was required to have a satisfactory criminal record before working at the Center, and Ms. Healy testified that she was "impressed" by what she observed on the video monitors. Specifically, Ms. Healy described seeing Mr. Tredway actively engaging and playing with the children, and she testified that she did not notice any actions she would describe as inappropriate, including horseplay. (Testimony of Ms. Healy, Ms. Rogers; Exs. R-1, P-15.)

A. **Friday, January 7, 2022**

2.

On Friday evening, January 7, 2022, Ms. Healy received an "urgent" message through Facebook from a parent of two children who attended the Center. Ms. Healy assumed the parent wanted to report that one of the children had COVID, and she asked Mr. Healy to respond. When Mr. Healy spoke to the parents on the telephone, the parents disclosed that their six-year-old daughter had made the following statements about Alex Tredway:

[The child] told [the mother] Alex put a coat over their head and kissed her on the lips and Alex said not to tell anyone. Mom was wanting to call the police. Bob told her we would watch the security cameras and reach out to her Saturday morning. Before Bob hung up, he talked to the father . . . [who] said [the child] tells him she wants to marry Alex and she loves him.

² The Center was not required to have video monitoring. However, the Healys installed a video system in all the Center's classrooms, which maintained recordings for one week. (Testimony of Ms. Healy.) Although DECAL tendered still photographs taken from the video recordings during the week in question, the videos themselves were not tendered into evidence by either party.

3.

That evening, Ms. Healy reviewed video recordings from the past week for about three hours and contacted another teacher who was assigned to Mr. Tredway's classroom. Ms. Healy did not observe anything on the videos that matched the child's allegations, with the exception of one interaction between the child and Mr. Tredway, which she did not consider inappropriate. Specifically, on the video from Thursday, January 6, 2022, shortly before the Center was closing, Ms. Healy observed the child looking for her jacket and asking Mr. Tredway to find it. The child left the room with the other children but returned to the classroom and asked Mr. Tredway to give her a hug. According to Ms. Healy, she observed him give her "an appropriate hug" and tell her to leave the room. (Testimony of Ms. Healy; Ex. R-10.)

4.

The parents of the child also called the police on Friday evening, January 7, 2022, and the child and her younger sister went that evening to have a Sexual Abuse Nurse Examination ("SANE"). According to Detective Kyle Anderson, an investigator with the Jefferson Police Department ("JPD"), the parents told police that their daughter had reported that an employee of the Center had kissed her on the mouth and also that "her bottom hurt." In addition to the SANE visit, Detective Anderson arranged a forensic interview of the two girls for Tuesday, January 11, 2022. (Testimony of Detective Kyle Anderson.)

B. Saturday, January 8, 2022

5.

On Saturday, January 8, 2022, Mr. Healy called the child's parents, and spoke to the father. According to Ms. Healy, the call ended "ugly," with the father expressing that he did not believe that his daughter would "make up that Alex asked for a kiss under a jacket" and advising

Mr. Healy that the parents would be filing a police report. Mr. Healy informed the father that the police were welcome to watch the video recordings, but that the Healy's would "support Alex" because the child's accusations "are false." (Testimony of Ms. Healy; Ex. R-10.)

C. Monday, January 10, 2022

6.

On Monday, January 10, 2022, Mr. Healy called the police and was transferred to Detective Anderson. Detective Anderson recorded their conversation, and the recording was entered into evidence at the hearing as Exhibit P-15. During the call, Mr. Healy offered to allow the police to review the Center's videos. He told Detective Anderson that Ms. Healy had watched the video recordings for three hours and that the child was only in the classroom with Mr. Tredway for about an hour on Thursday, January 6, 2022, and that they only interacted directly for about two minutes. Mr. Healy told Detective Anderson that he understood how sensitive the allegations were, but it was clear to the Court, after listening to Exhibit P-15, that Mr. Healy did not believe the allegations to be true. Mr. Healy told Detective Anderson that he had not told Mr. Tredway about the allegations or the police investigation and intended to "sit tight" because he did not want "this poor kid to freak out" or "to have a heart attack." Detective Anderson responded that there was "no reason to let him [Mr. Tredway] know now" because they did not know how the investigation would turn out. Detective Anderson told Mr. Healy that the police would wait until the forensic interviews were done on Tuesday, and then come talk to the Healy's and Mr. Tredway on Wednesday. They did not discuss whether Alex Tredway should remain in the classroom pending the investigation or the advisability of any other precautionary measures. (Testimony of Det. Anderson; Exs. R-10, P-15.)

7.

On that same day, Monday, January 10, 2022, Ms. Healy spoke to a consultant from DECAL, who advised her to file a report with DECAL regarding the complaint. Ms. Healy wrote a statement describing the allegation from the six-year-old child, Ms. Healy's review of the video recordings, the Healy's conversations with the child's parents, and the scheduled forensic interview of the child on Tuesday. Ms. Healy uploaded her statement on the DECAL portal on Monday. DECAL did not take any action related to Ms. Healy's report at that time. (Testimony of Ms. Healy, Ms. McDonald; Ex. R-10.)

8.

Alex Tredway worked at the Center on Monday, January 10, 2022. There is no evidence in the record he was subject to any restrictions or special oversight while working with the children in the after-school program. Photographs from the video on this day depict Mr. Tredway receiving a shoulder massage from a young girl in the classroom. (Testimony of Ms. Healy, Det. Anderson; Ex. R-19.)

D. Tuesday, January 11, 2022

9.

On Tuesday, January 11, 2022, the two girls participated in forensic interviews, which Detective Anderson and a Department of Family and Children Services ("DFCS") employee observed. The six-year-old child disclosed sexually inappropriate touching by Alex Tredway.³ In addition, the parents of an unrelated child – a four-year-old boy who attended the Center's after-school program – contacted the police directly on Tuesday to report that their son had

³ Sometime later, the four-year-old sister of this child also disclosed inappropriate touching by Alex Tredway. According to Detective Anderson, since these initial reports, the police have investigated additional allegations relating to Mr. Tredway and children at the Center and have conducted approximately thirty forensic interviews.

stated that Alex Tredway had touched his “pee pee.” The Healy’s were not told of this second allegation at that time. (Testimony of Det. Anderson.)

10.

The preponderance of the evidence proved that Alex Tredway worked at the Center on Tuesday, January 11, 2022. There is no evidence in the record he was subject to any restrictions or special oversight while working with the children in the after-school program. (Testimony of Ms. Healy, Det. Anderson; Ex. R-19.)

E. Wednesday, January 12, 2022

11.

On Wednesday, January 12, 2022, Detective Anderson, along with a sergeant from JPD and a DFCS worker, visited the Center around mid-day. They first spoke with the Healy’s about the investigation, the results of the forensic interviews, and the new allegation from the four-year-old boy. According to Detective Anderson, the Healy’s did not appear shocked by this information. The Healy’s asked Detective Anderson if they should suspend Alex Tredway at that time, and Detective Anderson told them that he strongly advised them to do so. Later that day, after Alex Tredway had arrived at the Center, Detective Anderson arrested him and charged him with sexual molestation and cruelty to children. Mr. Tredway confessed to inappropriately touching the six-year-old girl and the four-year-old boy and remains in jail on these charges.⁴

⁴ The evidence in the record proved that Mr. Tredway confessed to sexual acts involving the six-year-old girl and the four-year-old boy and that he wrote apology letters, which were included in Detective Anderson’s police report and tendered into evidence as Exhibit R-24. Although Petitioner objected to Exhibit R-24 in its entirety, the Court admitted the exhibit, but only to the extent the information contained therein was admissible under Georgia’s Evidence Code. In particular, the Court ruled that hearsay statements within Exhibit R-24 must meet an exception to the hearsay rule to be considered probative evidence. Having reviewed the exhibit, the Court concludes that the Detective Anderson’s summary of his interview with Mr. Tredway and his confession, as well as Mr. Tredway’s apology letters, are admissible. First, Petitioner stipulated that Mr. Tredway was arrested for child molestation, and Detective Anderson credibly testified that Mr. Tredway confessed shortly after being arrested and wrote the apology letters in the record. See Ga. Code § 24-8-803(8) (public records in civil proceedings containing factual findings resulting from an investigation are not excluded by the hearsay rule unless the source of information indicates a lack

(Testimony of Det. Anderson, Ms. Healy, Stipulation of parties (regarding arrest and charges); Ex. R-24, at pp. JPD 0090, JPD 0107, JPD 148, JPD 156.)

12.

DFCS notified DECAL of the investigation and arrest around 4:00 p.m. on Wednesday, January 12, 2022, and Ms. Healy reported it to DECAL around 8:00 p.m. that evening. (Testimony of Ms. McDonald; Ms. Healy.)

F. DECAL's Investigation

13.

On Thursday, January 13, 2022, a DECAL investigator, Tasha McDonald, went to the Center and interviewed the staff, including the Healy's, as well as some of the children. Ms. McDonald testified at the hearing that when she discussed the allegations with the Healy's on that date, they told her that they did not believe them, despite Mr. Tredway's arrest. The DFCS caseworker, who was also present with Ms. McDonald, informed the Healy's at that time that Mr. Tredway had confessed to the allegations after he was arrested. Ms. McDonald asked the Healy's and other witnesses to prepare statements about these events, and she was given access to the available video recordings. Ms. McDonald also took photographs of the facility, including the classroom where Alex Tredway worked, which had a number of small tables and chairs, instructional materials and toys, as well as a lofted play structure, with pillows and bean bag

of trustworthiness). Moreover, although DECAL did not specifically assert that it had attempted to procure Mr. Tredway's testimony, the Court concludes that Mr. Tredway, who is in jail pending trial on these charges, was exempt from testifying on the ground of privilege and properly considered "unavailable as a witness" under O.C.G.A. § 24-8-804. Thus, his confession and apology letters are statements against interest and not excluded by the hearsay rule. O.C.G.A. § 24-8-804(b)(3). Detective Anderson stated in his report that Mr. Tredway "admitted to sexually assaulting both juvenile victims in detail. In [the boy's] case, Alex stated that one time while changing [the boy] in the bathroom of the daycare, he masturbated [the boy's] penis until [the boy] laughed and [the boy] said it felt good. I also asked Alex if [he] was willing to write an apology letter to the victims and their parents. He stated yes. I provided Alex with two pieces of paper on Letterhead. Copies of these letters will be added to the case file of the corresponding victims." With respect to the six-year-old girl, Mr. Tredway confessed to "kissing [the girl's] cheek, he admitted to touching [the girl's] vagina outside her pants, and he admitted to putting his penis in [the girl's] mouth in the bathroom of the daycare." (Ex. R-24.)

chairs underneath. When the loft was not pushed against the wall, there was a space for a small chair behind it. The classroom also had an adjoining bathroom, which had a door with a lock.⁵ (Testimony of Ms. McDonald; Exs. R-12, R-13, R-14, R-17, R-18, R-19.)

14.

Ms. McDonald reviewed available video recordings from January 4, 2022 through January 10, 2022. She observed Mr. Tredway and another teacher in the classroom with approximately 15 to 20 students in most of the videos, although on the January 4, 2022 video, Mr. Tredway appeared to be the only teacher in the room with 15 or so students.⁶ On the video from January 4, 2022, Ms. McDonald observed Mr. Tredway picking up young girls, one with a dress on, and holding them up in the air, flipping them upside down, and carrying them over his shoulder. At one time Mr. Tredway was lifting two girls up in the air, one in each arm. On the video from January 6, 2022, Ms. McDonald observed Mr. Tredway kneeling down and talking with a little girl while she was sitting behind the loft and partially obscured from view. At the hearing, Ms. McDonald testified that Mr. Tredway did not appear to be actively monitoring the other students while he was picking up the girls or crouched behind the loft. In addition, as stated above, Ms. McDonald noted that Mr. Tredway was sitting in a chair while a young girl massaged his shoulders on the video from Monday, January 10, 2022. She did not observe Mr. Tredway kissing the six-year-old girl behind a coat on the videos, nor did she see Mr. Tredway touching the four-year-old boy at any time on the videos she reviewed. Rather, Ms. McDonald

⁵ When Ms. McDonald spoke with Ms. Healy, Ms. Healy told her that the bathroom door did not have a lock. However, Ms. McDonald documented that the bathroom in the classroom where Alex Tredway worked did, in fact, have a lock. (Testimony of Ms. McDonald; Ex. R-13.)

⁶ There is insufficient probative evidence in the record to prove the number of children in the classroom at the times Mr. Tredway was the only teacher present. Similarly, there was insufficient evidence to prove the length of time Mr. Tredway was alone in the classroom with children or the ages of the children. As stated earlier, the videos were not introduced into evidence, and DECAL did not tender class rosters or attendance records for the dates in question.

testified that the videos depicted instances of inappropriate “horseplay” between Mr. Tredway and some of the children in the classroom.⁷ (Testimony of Ms. McDonald; Exs. R-17, R-18, R-19.)

15.

Although DECAL considers horseplay to be a health and safety risk to children, the prohibition of horseplay is not a “core rule.” See Ga. Comp. R. & Regs. 591-1-1-.03(9).⁸ (Testimony of Ms. McDonald, Ms. Rogers; Ex. R-4.) However, the rule prohibiting sexual abuse is, of course, considered a core rule, and if the violation of a core rule is deemed “extreme,” revocation of the CCLC license is an available sanction. See Ga. Comp. R. & Regs. 591-1-1-.38. After Ms. McDonald completed her investigation, DECAL determined that the Center had committed five rule violations, including the following, which are discussed in detail in the Conclusions of Law: 1) Rule 591-1-1-.11(2) (Sexual Abuse)(extreme); 2) Rule 591-1-1-.32(7) (Supervision)(high); 3) Rule 591-1-1-.03(9) (Horseplay); 4) Rule 591-1-1-.31(13) (Criminal Acts)(high); 5) Rule 591-1-1-.32(2) (Staff to Child Ratios)(high). In addition, Ms. Rogers and Ms. McDonald testified that they considered the Center’s violations, taken together, to amount to a “non-correctable abuse, dereliction or deficiency,” which requires DECAL to revoke a CCLC’s license. See Ga. Comp. R. & Regs. 591-1-1-.38(3)(i). Specifically, Ms.

⁷ Although Ms. McDonald testified that several Center employees she interviewed reported telling Mr. Tredway not to pick up the children, these employees did not testify and there was insufficient probative evidence to prove when such instructions were given to Mr. Tredway and by whom. There was also insufficient evidence to prove that the Healys or other supervisors knew about Mr. Tredway’s tendency to engage in horseplay with the children.

⁸ DECAL Rule .03(9) provides that “[s]taff shall not engage in, or allow children or other adults to engage in, activities that could be detrimental to a child’s health or well-being, such as but not limited to, horse play, rough play, wrestling, and picking up a child in a manner that could cause injury.” Id. Ms. McDonald testified that core rules are considered more serious and subject license holders to significant sanctions if they are violated. April Rogers, the Child Care Services Director of Policy and Enforcement for DECAL, testified that DECAL’s core rules are identified in an Indicator Manual published on DECAL’s website, however neither party presented the Indicator Manual into evidence at the hearing. According to Ms. Rogers, a core violation is assigned a severity level – low, medium, high or extreme in order to determine the severity of the sanction.

Rogers testified that the Center's decision to allow Mr. Tredway to be present and care for children after January 7, 2022 demonstrated such an extraordinary lack of judgment and concern for the safety of the children at the Center that DECAL did not consider the violation to be correctable. Accordingly, DECAL issued a Notice of Revocation to the Center on February 7, 2022. (Testimony of Ms. Rogers, Ms. McDonald; Exs. R-1, R-4.)

G. Administrative Hearing

16.

At the hearing, Ms. Healy testified that the Center has been closed temporarily since shortly after Mr. Tredway's arrest, although Petitioner continues to operate a second, separately-licensed CCLC. Ms. Healy further testified that, as a former educator and a past victim of sexual abuse herself, she is sensitive to signs of abuse. Nevertheless, she continued to defend the Center's decision to allow Mr. Tredway to continue working even after learning of the allegations on Friday, January 7, 2022. First, she minimized the impropriety of the allegation, characterizing the six-year-old's allegation as akin to an appropriate kiss on the forehead and dismissing the child's profession of love for her eighteen-year-old teacher as typical childhood infatuation, rather than a possible sign of an inappropriate relationship. With respect to Ms. Healy's review of the videos, she initially testified that she did not find it alarming when Mr. Tredway was picking up the little girls, receiving a shoulder massage, and crouching down behind the loft. She later amended her testimony to state that she did not remember seeing some of those interactions because she was looking for a kiss on the lips behind a jacket, and that although, upon reflection, some of those actions might be "alarming," she commented that she would "probably" have to take corrective action on every teacher if she watched videos all day. Finally, having considered Ms. Healy's testimony, as well as her demeanor and manner of

testifying, the Court finds that Ms. Healy has not accepted any responsibility for the actions of her employee, for the Healys' decision to prioritize the feelings of Mr. Tredway over the safety and well-being of a child, and for their choice to allow Mr. Tredway continued unfettered access to children pending the investigation. Rather, Ms. Healy assigns all the blame to DECAL, DFCS, and the police, as the experts on sexual abuse investigations, for not advising the Center to take any precautions and for failing to inform the Healys that more serious allegations had emerged.

III. CONCLUSIONS OF LAW

A. Violations

1.

DECAL bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-07. The standard of proof is a preponderance of evidence. Ga. Comp. R. & Regs. 616-1-2-21.

2.

Georgia law provides that DECAL has the authority to exercise disciplinary action against a CCLC licensee upon a finding that the licensee has failed to comply with the licensing requirements or statutory or regulatory provisions governing CCLCs. O.C.G.A. § 20-1A-12(b). Such disciplinary action may include suspension, restriction, or revocation of a CCLC license. O.C.G.A. § 20-1A-12(c). In the present case, DECAL asserts that the Center's license should be revoked as a result of serious rule violations, which DECAL has determined to be "non-correctable." Ga. Comp. R. & Regs. 591-1-1-.38(3)(g) (DECAL "shall revoke a License or Permit if a Non-correctable Abuse, Dereliction or Deficiency exists in the operation or management of the Center"). Under DECAL's rules, a "Non-Correctable Abuse, Dereliction, or

Deficiency” is “an abuse, dereliction or violation of these rules which demonstrates any of the following:”

1. Flagrant and shocking intentional misconduct by the Center or Center Staff where those responsible for operation for the Center knew or should have known of the likelihood of Staff to commit such acts;
2. An intentional or reckless disregard for the physical health, mental health or safety of a child in care which may or may not result in physical injury to the child by the Center or Center Staff where those responsible for the operation of the Center knew or should have known of the likelihood of Staff to disregard; or
3. Some casual connection between the intentional violation of a rule and the death or major injury of a child in care.

Ga. Comp. R. & Regs. 591-1-.02(x).

3.

The Court concludes that DECAL met its burden of proof on three of the five alleged violations and that disciplinary action is warranted. First, DECAL proved by a preponderance of the evidence the following violations of the rules and regulations governing Child Care Learning Centers:

- (1) Center personnel sexually abused a child or engaged in sexually overt conduct in the presence of a child enrolled in the Center in violation of Ga. Comp. R. & Regs. 591-1-1-.11(2);
- (2) Center staff engaged in activities that could be detrimental to the child’s health or well-being, including horse place and picking up a child in a manner that could cause injury in violation of Ga. Comp. R. & Regs. 591-1-1-.03(9); and
- (3) Center staff committed criminal acts, including sexual abuse and child molestation, in violation of Ga. Comp. R. & Regs. 591-1-1-.31(13). See also O.C.G.A. §§ 16-6-4; 19-7-5(b)(17).

Specifically, the preponderance of the probative evidence proved that Alex Tredway sexually abused at least two young children at the Center while he was a teacher in the after-school program, a violation of both criminal law and DECAL rules. In addition, the preponderance of

the evidence proved that Alex Tredway engaged in activities that could cause injury by picking up children, flipping them, and throwing them over his shoulder, in violation of DECAL's rule against horseplay at CCLCs.

4.

However, DECAL failed to prove by a preponderance of evidence that the Center violated CCLC rules relating to inadequate supervision or child-staff ratios. See Ga. Comp. R. & Regs. 591-1-1-.32(7); Ga. Comp. R. & Regs. 591-1-1-.32(2). With respect to the alleged inadequate supervision violation, DECAL's rule provides that CCLC staff must be alert, positioned to maximize their ability to hear and see children, and respond promptly to the needs and actions of the children. Ga. Comp. R. & Regs. 591-1-1-.32(7). DECAL did not introduce the videos into evidence, just a series of still photographs captured from the videos that showed Mr. Tredway engaging in horseplay with one or two children, while other children, who appear to be school age for the most part, did other activities around the classroom. In some photographs, another teacher was present and sitting at a table with a small group of students. This evidence simply does not prove that for any significant period of time, Mr. Tredway and the other teacher were not providing watchful oversight of the children in the classroom. A teacher, even one supervising very small children, is permitted to engage with students on an individual or small-group basis as long as they are alert to the classroom environment and the activities of other children at the same time. By necessity, unless the mandated teacher-to-child ratio is one-to-one, there will be reasonable and appropriate instances where a teacher will focus on one or two children while remaining aware of the other children and responsive to their needs.

5.

In the Notice of Revocation, DECAL also asserts that Mr. Tredway did not provide watchful oversight when he sent the other children “away” so that he could be alone with his victims. As a preliminary matter, there was no evidence that Mr. Tredway sent the other children away, rather than opportunistically committing the abuse at times when he could justify being alone with the child in the restroom. Moreover, although Mr. Tredway’s confessed actions are abhorrent and apparently occurred out of sight of the other children and staff, they simply do not lead to the conclusion that the other children were left unsupervised in his absence. DECAL acknowledged that it did not have evidence to prove when the sexual abuse occurred, where the other children were while Mr. Tredway was alone with the victims, or what teacher was supervising the other children during those times. Accordingly, the Court concludes that DECAL failed to prove that the Center violated the supervision requirements in Rule 591-1-1-.32(7).

6.

Similarly, DECAL failed to present sufficient probative evidence to prove that the Center was out of ratio on January 4, 2022, at approximately 5:25 p.m., as specified in the Notice of Revocation. First, the still photographs captured from the video on that date and submitted as Exhibit R-17 are all time-stamped around 3:45 p.m. Second, there are no attendance records or class rosters to prove which children were present in the classroom at 5:25 p.m. on January 4, 2022 or how old they were. DECAL’s assertion that there were twenty children ages four through school age in the classroom at that time, and that five of the children were four years old, was simply unsupported by any probative evidence in the record. Accordingly, the Court

concludes that DECAL failed to prove that the Center violated the mixed-age group ratios in Rule 591-1-1-.32(2).

B. Sanctions

7.

Having considered the evidence in the record, the Court agrees with DECAL's assessment of the sexual abuse violation by a member of the Center's staff as "extreme" and warranting a significant sanction. In weighing the appropriate sanction, the Court has considered the Healy's initial reaction to the allegations on January 7, 2022, which trivialized the concerns of the parents, questioned the truthfulness of the child's disclosure, and sided with an eighteen-year-old part-time employee who had worked at the Center for less than six months. The Court is also troubled by Petitioner's characterizations of the child's initial allegations as describing appropriate interactions between a young girl and an eighteen-year-old male teacher, which Petitioner asserts could not reasonably be considered a "red flag." The allegation that Mr. Tredway kissed the six-year-old girl on the lips behind a jacket and admonished her not to tell anyone does not equate to an appropriate kiss on the forehead in public view. In addition, although it may be that in some cases a child's stand-alone statement that she loves her teacher and wants to marry him indicates only an innocent childish attachment, when coupled with the allegation of clandestine kissing and an admonition to keep it secret, a reasonable person, especially one who undertakes to be responsible for the care and safety of small children, should have been alerted to the risk that the teacher had acted improperly. Finally, the absence of proof on the video recordings from one week was not reasonably sufficient to definitively conclude, as the Healy's quickly did, that the child was lying. In fact, even after Mr. Tredway was arrested and the Healy's were told by Detective Anderson on January 12, 2022 about the results of the

forensic interview with the six-year-old girl and the new alarming information from the four-year-old boy, the Healy's still did not believe the allegations, until the DFCS worker told them that Mr. Tredway had confessed.

8.

Perhaps most troubling, however, is the Petitioner's unwillingness to acknowledge that the Center should have responded differently or that the decision to support Mr. Tredway and allow him to remain on the job during the investigation was in error. Ms. Healy instead expressed anger at the police, DECAL, and DFCS for not telling the Center what precautions to take and blames the Center's inaction on Detective Anderson's agreement that Mr. Healy did not have to tell Mr. Tredway about the investigation for fear of upsetting him. Detective Anderson did not tell the Healy's that they should not restrict Mr. Tredway's access to children or, at the very least, make provisions to have Mr. Tredway's interactions with children closely supervised while the investigation was pending. The fact that the Healy's disavowed any personal responsibility, as owners of a CCLC, to exercise reasonable judgment to safeguard children once allegations of inappropriate physical contact are made, supports DECAL's determination that a non-correctable deficiency exists in the operation or management of the Center. That is, the Court concludes that DECAL met its burden to prove that the Center recklessly disregarded the health and safety of children in their care when it allowed Mr. Tredway to continue working at the Center on January 10, 2022 through January 12, 2022, as asserted in the Notice of Revocation.⁹ Moreover, given the entrenched position by Petitioner that the Center did nothing wrong, there is no reason to believe that such abuse could not occur again.

⁹ DECAL did not meet its burden to prove that "the Center lacked sufficient oversight and management control when a staff member was able to sexually abuse multiple children at the center over an undetermined period of time," as alleged in the Notice of Revocation. There simply was insufficient evidence to prove the circumstances under which Mr. Tredway was able to commit the abuse without the knowledge of the Center's management.

Under DECAL Rule 591-1-.38(3)(i), DECAL “shall” revoke the license of a Center in the face of a non-correctable deficiency in the operation or management of that Center. Accordingly, the Court concludes that DECAL’s proposed sanction of revocation is proper.

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, DECAL’s revocation of the Center’s license is hereby **AFFIRMED**. This Initial Decision and all confidential records in the file of this case shall remain under seal and shall not be released to any third party except by order of the Court.

SO ORDERED, this 30th day of August, 2022.

Kimberly W. Schroer

Kimberly W. Schroer
Administrative Law Judge





NOTICE OF INITIAL DECISION

Attached is the Initial Decision of the administrative law judge. A party who disagrees with the Initial Decision may file a motion with the administrative law judge and/or an application for agency review.

Filing a Motion with the Administrative Law Judge

A party who wishes to file a motion to vacate a default, a motion for reconsideration, or a motion for rehearing must do so within 10 days of the entry of the Initial Decision. Ga. Comp. R. & Regs. 616-1-2-.28, -.30(4). All motions must be made in writing and filed with the judge's assistant, with copies served simultaneously upon all parties of record. Ga. Comp. R. & Regs. 616-1-2-.04, -.11, -.16. The judge's assistant is Devin Hamilton - 404-657-3337; Email: devinh@osah.ga.gov; Fax: 404-657-3337; 225 Peachtree Street NE, Suite 400, South Tower, Atlanta, Georgia 30303.

Filing an Application for Agency Review

A party who seeks review by the referring agency must file an application for agency review within 30 days after service of the Initial Decision. O.C.G.A. §§ 50-13-17(a), -41. **In nearly all cases, agency review is a prerequisite for judicial review.** O.C.G.A. § 50-13-19(a).

The application for agency review must be filed with: . Copies of the application for agency review must be served upon all parties of record and filed simultaneously with the OSAH Chief Clerk at 225 Peachtree Street NE, Suite 400, South Tower, Atlanta, Georgia 30303. If a timely application for agency review is not filed and the referring agency does not review the Initial Decision on its own motion, the Initial Decision will become the Final Decision of the referring agency by operation of law. O.C.G.A. §§ 50-13-17(a), -41.