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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 22-090-9001
Geneseo Child Care

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Geneseo Child Care. The complaint alleged the following:

- 1. The daycare center failed to provide adequate treatment to meet the behavioral and medical needs of a child for whom they are contracted to provide supervision and care.**
- 2. The daycare center violated the rights of one of the children in their care when they did not collaborate with the parent on a behavior plan to support the medical or behavioral concerns of a child, for whom they provide supervision.**

If found substantiated, the allegation would violate Public Act 100-0105 and DCFS Daycare Licensing Standards Rule 402.270 Guidance and Discipline and 407.250 Enrollment and Discharge Procedures.

COMPLAINT STATEMENT

The complaint alleges this childcare facility is threatening to expel the student who is a foster child with an individualized family service plan (IFSP) who receives occupational and developmental therapy for sensory needs. The daycare is not providing full support to meet the needs of the child. Since the complaint was opened by the HRA the service recipient was terminated from services with Geneseo Child Care.

FINDINGS

Staff Interviews (9.1.21)

Daycare records were received by the HRA on March 2022 and were originally requested in November, 2021, after receiving an appropriately signed consent to release

information for records from the Department of Children and Family Services (DCFS) who is the legal guardian of the service recipient. During this case progression the daycare ended their services with the child on July 9, 2021.

On September 1, 2021, a site visit took place via Webex due to the Covid19 pandemic. Two HRA board members attended as well as two individuals from the daycare center who are the owners and directors of the program. This daycare center is licensed by the DCFS and accepts Child Care Connection which is a subsidized childcare payment program. The daycare is open from 7am-5:30pm, Monday- Friday. The daycare provides a morning snack, lunch, and afternoon snack for children who attend all day. Most children are picked up by 5pm. The routine of the day involves: free play, center and circle time, outdoor play, and nap/quiet time (no more than 2 and 1/2 hours). The daycare focuses on having structure and good routines in place. The daycare does accept children with specialized needs based on the center's ability to meet the needs of the child. Admission is determined on a case by case basis. A child with a feeding tube is another example of meeting special needs in their daycare setting. If a child has a need that requires a 1:1 teacher, which lowers the ratio of the classroom, they are not able to provide this. The daycare does not request a copy of a child's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP) used in childhood early intervention services; it is left up to the parents to communicate this information. Staff explained the daycare does not discriminate a child's enrollment based on a disability.

This daycare center is licensed to serve 98 children, between the ages of 6 weeks - 12 years old. The child and teacher ratio vary determined by the age of the children served in the classroom. The daycare has five classrooms: an infant room, a toddler room for ages 15 months thru 24 months, a 2-5 year old room, a 4 and 5 preschool room, a school age room (before and after school), and a school age summer program. At the time of the site visit, the daycare was serving 8 infants and the classroom was full, with a 1:4 ratio of teacher per students. The toddler room can contain 20 children, and is currently serving 15 with a 1:5 ratio of teacher per students. The 2-5 year old classroom can contain 20-23 as the maximum student number, and is currently serving 16 with a 1:8 ratio of teacher per students. The 4 and 5 year old preschool room can serve up to 20 kids, and currently has 10-15 enrolled with a 1:10 teacher per student ratio. The school age program has 28 kids and is split between before and after school. This requires a 1:20 teacher per student ratio.

The daycare employs Lead Teachers, Assistant Teachers, and a Floater. The Lead Teachers are DCFS qualified. The Assistant Teachers must have a high school diploma or general equivalency degree (GED). The Directors of the daycare, who in this case are also the owners, can also fill in as teachers when needed. A nurse visits once per month to review medications. Medications are given by the Director. All staff are qualified based on their education level or successfully completed DCFS mandated training through a program called Gateway. These trainings are offered online. There is a DCFS training program through Gateway called "Welcome Each and Every Child" that highlights how to support a child with a disability in the daycare setting. Each Director requires 6 hours of this training module.

The daycare is able to support children with different levels of need. They have experience with food allergies, and some behavioral needs for school age children who are diagnosed with autism and have speech needs. The daycare is provided with a copy of the child's individualized education plan (IEP) and currently has approximately 3 or 4 school age children with IEPs. Information about daycare policy/procedure and daycare children's needs are discussed in monthly team meetings. If a child has behaviors, then the daycare attempts to support the child in a positive way. The teachers or Directors, if involved, will use interventions such as redirection and before a child would return to the group they would debrief with the teacher. The daycare provides a Parent Handbook when enrolled at the daycare center. This handbook has a section that provides guidance to the parent on how the daycare navigates behavior needs. They do have a "Temporary Removal" policy that is explained in the handbook. Parents sign a form acknowledging they have reviewed and received the handbook. The daycare has had a trainer come into monthly staff meetings in January and July to observe classroom behaviors.

The child involved in this HRA case had been enrolled at the daycare center for one year and two weeks, June 29, 2020 through July 9, 2021. He was 2 and ½ years old when he left. He had been in the toddler room since May 2021, which is not an early intervention classroom. It is an introduction to a preschool room. The child was receiving early intervention services at the building. The daycare director facilitated meetings with the parents in the conference room. There are cameras in every classroom and children can easily be observed. This child did receive early intervention services for occupational therapy (OT) and developmental therapy (DT) for speech. The speech provider did not come to the daycare center, but these appointments were facilitated over zoom. The daycare was in communication with the parents and providers. The OT provider would communicate ways to mitigate sensory issues. The foster parent was good about providing a calendar so daycare staff were aware of when these appointments would occur. When the child enrolled at the center, there were no concerns of disabilities documented. The daycare staff noticed issues and brought this information up to the foster parent. Per the daycare directors involved in the site visit, the behaviors they were observing in the daycare setting were consistent with what was happening at home. The child has one sibling in the home who also attended daycare. The daycare staff observed the child to be "violent" in the classroom. The OT and DT providers never observed the child in the classroom but in the gym. The classroom violent behaviors would be hitting and choking other classmates. The child would also spit, hit and run away from staff and teachers.

The child's routine was explained by daycare staff that he arrived early to the program. Free play was good for him. Transitions were hard, especially depending upon the size of the group. He would often run around, scream, throw toys, and refuse to pick-up toys. If the class had to walk in a line, he had to be hand-to-hand with staff or he would run to the front door. When playing outside, in the daycare's fully fenced in yard, he would climb the fence. He liked to use sidewalk chalk outside the fence area. The daycare would let him do this when they had enough teachers. To support his needs and manage his behaviors the daycare moved him to the older toddler room with the 1:8 ratio

from May 2020-July 2021. During the lunch time he would throw cups, dump things intentionally, and would laugh when this happened. His behavior was not developmentally appropriate as per the daycare. He required a teacher to be close at all times. The daycare was aware of oral sensory issues with this child. He would overfeed himself, and put toys or socks in his mouth at naptime. The foster parent provided an oral sensory toy that worked "okay" according to staff, but it looked like a Lego block and would confuse other children about putting Legos in their mouths. Other kids would try and take it and he would keep it in his mouth while trying to talk. He would often elicit a high-pitched scream. The staff would keep the oral sensory toy on the counter, and he would have to "use his words" and ask for it. They would also offer him something to drink. Sometimes, when he would start screaming, staff were unable to get him to stop. The daycare was looking to collaborate with the parent on this behavior. The child was verbal but had difficulty settling at naptime. He required a teacher to "pat his back" and he would do well. The child reportedly used a weighted blanket at home but did not have one at the daycare. The daycare staff would also offer time to "cuddle" with staff which helped for a short while. The child would sometimes hit and spit. The classroom teacher kept a notebook to document behaviors. They used this to track behaviors. If he had a "tough day" then they sent a note/sheet home. If the behavior they were observing was developmentally appropriate it was not documented. The teacher's practice was to attempt two interventions and if this did not work then document what was occurring.

The daycare directors reported they met with the parent to start working on a behavior plan. They met in-person and created a rough draft document. The parent made a lot of changes to the original document, which in essence created a new document according to staff. The daycare did not agree with the new plan. The parent had added a lot of historical information in the plan, which was fine, but unnecessary for their enrichment plan. The last plan, created by the parent, was never finalized after the meeting that occurred in June 2021. It took approximately a week and a half to receive a response, all the while the child continued to spit and hit. The Director/owners reported they are always open to working with a parent but this relationship became adversarial. The parent wanted to provide a weighted vest that required regular washing and heavy stuffed animals. The daycare is licensed through DCFS and wanted to ask their licensing representative before agreeing to provide these interventions. The relationship with the parent and child ended after an issue when the daycare called the parent to ask for the child to be picked up due to behaviors being displayed by the child. The parent arrived around 2:30pm and daycare representatives described her as aggressive saying, "You can't kick him out." The director responded with, "Not sure what else we can do for him." This conversation was recorded by the parent on their cellular phone, unknowingly to the daycare director. The daycare's policy asks for a two week written notice from a parent if services will be ending. The daycare immediately terminated services after the recording incident. The daycare called the parent to inform her of this and the last day of service for this child was 7/9/21. A formal letter was also sent.

The daycare does offer a grievance process to escalate complaints. A parent would speak with a teacher first, then director, and a parent can contact DCFS. The daycare stated that they had a licensing complaint about this situation and DCFS

unfounded it. The daycare could have used their “Temporary Removal Policy” in this situation to remove the child for up to one week, but they did not have the opportunity to implement this. The parent would not return calls. This was the first time the daycare had terminated services and spoke with their Licensing Representative through DCFS about the situation who felt the child was not safe. The daycare feels they collaborated with the parent, attempted interventions, and communicated with both parents.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 – The daycare provider failed to provide adequate treatment by daycare provider to meet the behavioral and medical needs of a child for whom they are contracted to provide supervision and care.

The HRA reviewed form called “Behavior Think Sheet” which is used by the daycare to document what rules were broken in the daycare classroom by the child. This document requires staff to also develop a “plan” on how to prevent the behavior from happening again. There are only 2 of these sheets that are behavior specific. These are dated 4/27/21 and 2/25/20.

The HRA then reviewed handwritten notes kept by the classroom teacher to document the toddler’s behavior. This document is called “Informal Behavior notes for [Service Recipient] from teachers in the toddler room and 2 + 3 year old’s”. For the month of March there are 6 logged behaviors, 4 of these 6 document the child putting his hands around a peer’s neck and-trying to choke them. For the month of April there are 10 dates with 14 documented behaviors, 9 of the 14 involve some form of biting, kicking, or hitting. For the month of May there are 11 dates that document 17 behaviors. Of these 17 behaviors, 9 are documented as hitting, pulling hair or kicking. For the month of June, there are 6 dates with behaviors documented with 8 behaviors documented. Of the 8 behaviors, 5 are documented as hitting. The handwritten logs end on June 24, 2021. There is nothing in these handwritten logs that document social-emotional or behavioral incidents being communicated to the parent by the classroom teacher or other staff or if there was discussion. There is a blue sticky note attached to this information that says these logs were kept separately from the other students so the parent could review them.

On June 29, 2021, a formal document titled “Behavior Tracking Sheet” was used by teaching staff while the child was attending the “2s and 3s” class. This tracking sheet is organized as a table chart and requires the following information to be documented: date, time, antecedent, description of behavior, interventions attempted and outcomes. This “Behavior Tracking Sheet” documents 14 behaviors with the child on this day. There are no documents observed for this month that provide evidence staff communicated the behaviors with the parent on a daily basis. There is no signature line observed for the parent to sign in acknowledgement they had been provided with the information.

The involved parties begin working on a Behavior Plan for the child that begins in late June and then abruptly ends in July 2021 when the daycare terminated services. These details are provided in the second complaint allegation.

The HRA reviewed a formal letter dated July 12, 2021, written by the owners of Geneseo Child Care addressed to the parents of the service recipient. This letter is informing the parents of the following: "We regret to inform you that Geneseo Child Care will no longer be able to care for [Service Recipient]. As [Service Recipient] continues to display persistent and serious behaviors that are disruptive, hazardous, and immediately threatening to the safety of himself and his peers. While we have worked together on strategies to provide many remediations and interventions it is our professional judgement that [Service Recipient] be transitioned to a new program. ..."

This same letter has four bullet points that explain what behaviors are considered when making this decision as: "Deliberate hitting of staff; choking, pushing, and hitting of peers. Continued spitting in the faces of staff; spitting at peers. ..." The daycare owners also wrote: "As a childcare provider for many children, we feel the duty to provide the same level of care to each individual child. Due to these behaviors, ongoing temporary removals and long attempts at re-direction have required frequent one on one attention from teachers and administration which has directly impeded other students' learning opportunities." Another main point of this letter documents "Also, we will be parting our current and future relationships with [Foster Parent]. We have a reasonable expectation to perform business in a peaceful and cordial manner with a certain level of trust. Because these reasonable expectations cannot be met, we are terminating [Foster Parent] from future business relations. Reasons include but are not limited to: Breaking Illinois State law by digitally recording conversations with child care staff. Disruptive behavior including entering classrooms loudly at quiet time. Combative and rude conversations with staff." The letter concludes with "...We recognize that all involved have provided sufficient resources towards the care of [Service Recipient]. At this time we will work with the parents to transition and seek alternatives for the continuation of care for [Service Recipient]." There is a handwritten post-it note attached to this letter with the following "Called morning of July 12, 2021 to [Father] and then [Foster Parent] to notify about the letter." It is signed by one of the daycare owners.

The HRA reviewed the Geneseo Daycare's Parent Handbook. The mission statement of the daycare is "Geneseo Child Care will provide a safe and developmentally appropriate environment. Our focus is to promote each child's social and emotional, physical, and cognitive development. Our goal is to establish a desire in each child to be a kind and caring lifelong learner." This handbook also lists goals of the daycare center as "...Offer a curriculum which encourages social, emotional, physical and intellectual growth. ... Provide a safe, comfortable environment for these early learning opportunities and growth processes. Help each child learn to develop self-discipline and independence and to deal with his/her emotions in an appropriate manner." The section titled "Admissions" explains the following "Geneseo Child Care does not discriminate against children or parents from admission regardless of race, color, creed, sex, or religion. A child with special needs may be accepted based on the ability of the Center and the teachers to meet those needs." The section titled "Termination Procedure" explains the

following information: “We reserve the right to discontinue services for any reason by giving you two weeks written notice. The Center reserves the right to dismiss any child for disruptive and/or damaging behavior. If, after a period of time and conference between the parent, lead teacher, and/or Director, a child is unable to adjust to the routine of the Center and is causing disruptive and/or damaging behavior to property or others the child will be asked to leave. This policy is without regard to race/sex/creed/color/religion and is instituted so that we can ensure the children attending the Center are safe and comfortable in their atmosphere in which to grow and develop. Geneseo Child Care does reserve the right to terminate any family immediately if needed.”

The handbook also has a section titled “Guidance and Discipline” and explains “The staff strives to create an atmosphere of acceptance for and to enhance the self-esteem of each child. When discipline is needed, we never use any type of physical punishment. Discipline will use positive guidance, redirection, and limit setting. We will prohibit the use of humiliating and frightening punishment. We will also prohibit peers from administering discipline. The child will typically be separated from the group for discussion nor redirection. We believe that: All children need limits which are consistently enforced. ... These discipline policies apply to all employees and parents while they are at the center. When a specific behavioral problem has been identified at the Center, the Director and primary teacher will bring this to the attention of the child’s parents or guardians.”

The Parent Handbook also communicates to the parent the daycare center’s “Temporary Removal Policy” and explains “...If inappropriate behavior continuously occurs, we use a positive approach by encouraging the child’s good behavior and/or redirect his or her activity. If the problem still exists, the child is then removed from the situation and given time away from others in a warm sure place that allows the child time to gain control of their emotions. Teachers will take time to help them regain control. If the child demonstrates behavior that requires frequent ‘extra attention’ from the staff member, we may choose to develop and implement a behavior management plan. This plan would be developed in consultation with the parents and would be consistent with the requirements of State Licensing rule. A behavioral report will be written by the teacher and/or administrator and signed by the parent to be placed in the child’s file for tracking purposes if unmanageable behavior continues. If the child receives 3 written behavioral reports within a 4-week period the child may be temporarily removed from the program for one week. Fees will still be paid for this week to retain the child’s space in the program. If a situation arises where a child is consistently endangering himself, peers or staff, it may become necessary to discharge the child. Every attempt will be made to work together with the parents, child and any other referral agencies necessary to assist in correcting the behavior. However, the safety of children is always our primary concern. The administrator would be in communication with the parents prior to this occurring. NOTE: Geneseo Child Care reserves the right to deviate from this process, depending on the severity of nature of the aggression and/or antisocial behavior. No tuition, deposit or registration will be refunded for a suspended or disenrolled child. In addition to the above, the center will use the following three methods to track behavior and

communicate with parents. Daily Reports- a parent/teacher communication format that does not count as a written behavior report. This may or may not be just a verbal conversation. Observation Form- an inner center documentation of observed inappropriate or challenging behaviors (above and beyond the acceptable boundaries of appropriateness). This form may be filled out by a teacher and is used solely to track behavior patterns. These are to be turned in daily to the office. The 'Behavior Report'- to be filled out and turned into the office. Management will then give a copy of this report to the parent and a copy will be placed in the child's file. Each report counts as one of the three which would result in temporary removal from the center."

The HRA reviewed a form titled "Parent Handbook Acknowledgement and Agreement" that documents a person acknowledging receipt of Geneseo Daycare's Parent Handbook. This form explains "The Parent Handbook is an important document intended to help you become acquainted with Geneseo Child Care LLC. We encourage you to review the handbook carefully. By signing this form, you acknowledge receipt of the Parent handbook from Geneseo Child Care LLC and agree to be bound by its requirements as a condition of my child's acceptance into the program. ... I understand that the policies described in the Parent Handbook are subject to change at the sole discretion of Geneseo Child Care at any time. I agree to abide by the policies and procedures as described in the Parent Handbook. I understand that my signature below indicates that I have read and understand the above statements and have received a copy of the parent Handbook." The foster parent's signature is observed on this form with no date included.

The daycare also provided the HRA with a publication from Governor's Office of Early Childhood Development which provides information on Public Act 100-0105 this is the legal mandate that prohibits early care and education (ECE) providers from expelling young children (ages 0-5) due to behavior. The daycare highlighted several sections of this document. This mandate allows the daycare provider to work with a family on a "planned transition" to a more appropriate setting if interventions implemented prior to are ineffective. To begin the transition process a daycare or ECE should document the following: "Initial observation of challenging behaviors. Communication with the family, family's input in any intervention, and family consent for or refusal of services. Plan for addressing issues with the child, including resources/services/interventions contacted and used. If and how the child is transitioned out of program (in situations where this is determined to be most appropriate)." This document also explains planned transition "If the provider has tried many times to **use all available resources** (emphasis added) and has come to a decision that keeping the child in the program is not in the best interest of the child or the child's peers, the provider should work with the family to transition the child out of the program. Providers should work with families to find a more appropriate setting by making referrals to other programs. If possible, the provider should work with the new provider to help plan a smooth transition." Further along the daycare highlighted the following "What if the child is an immediate threat to the safety of him/herself or others? In the case of serious safety threat, the child may be **temporarily removed** (emphasis added) from the group setting. Providers should document the incident, and work with the family and available

resources to return the child to a group setting as soon as possible. If the provider's professional judgment is to transition the child out of the program, they should start the process." Public Act 100-0105 (B) addresses how Early Childhood Education (ECE) programs should address persistent behaviors: "The early childhood program shall, with parental or legal guardian consent as required, utilize a range of community resources, if available and deemed necessary, including but not limited to, developmental screenings, referrals to programs and services administered by a local educational agency or early intervention agency ... and consultation with infant and early childhood mental health consultants and the child's health care provider. The program shall document attempts to engage these resources, including parents or legal guardian participation and consent attempted and obtained. ..."

DCFS Licensing Standard Section 407.250 Enrollment and Discharge Procedures state: "a) The day care center shall enroll only those children eligible under the center's written enrollment policies. The center shall not use eligibility criteria that screen out children with disabilities, and shall make reasonable modifications in policies, practices and procedures to accommodate children with disabilities. b) Prior to enrollment, the parents shall be provided information about the program and given an opportunity to observe during the hours of operation. c) The day care center shall provide publicly available written statements that include the following and that are given to parents at the time their child is enrolled in the facility: 1) Names, business address and telephone number of those persons legally responsible for the program and of those persons having immediate responsibility for the daily conduct of the program; 2) Statement of services, purposes and goals; 3) Description of the daily program; 4) Fees and plan for payment; 5) Policies regarding delinquent fees; 6) Types of insurance coverage for children; 7) Admission, enrollment, and discharge policies and procedures: A) Hours of operation; B) Information regarding part-time enrollment, if applicable; C) Holiday and vacation schedules; 8) Arrangements for arrival and departure of children (time, location, transportation); LICENSING STANDARDS FOR DAY CARE CENTERS October 16, 2020 – P.T. 2020.17 Illinois Department of Children and Family Services Rules 407 – (55) 9) Provision for emergency medical care, treatment of illness and accidents, which includes: ... 12) Procedures concerning personal belongings brought to the center; 13) Policy regarding release of personal information on the child or family; 14) Guidance and discipline policy; 15) Planned means of communication between the center and the parents; ... and 17) Behavior Support and program transition policies."

DCFS Licensing Standards for Day Care Centers Subpart F: Structure and Safety Section 402.270 Guidance and Discipline state: "a) The day care center shall develop a guidance and discipline policy for staff use that is also provided to parents. Expulsion due to a child's pattern of challenging behavior is prohibited. Planned transitions to settings better able to meet the child's needs are not considered expulsions. Staff shall sign the guidance and discipline policy at the time of employment and parents shall sign the policy when their child is enrolled. The policy shall include: 1) A statement of the center's philosophy regarding guidance and discipline; 2) Information on how discipline will be implemented by staff; 3) Information on how parents will be involved in the guidance and discipline process; 4) Information on how children will be involved in the

guidance and discipline process; and 5) Behavior support and program transition policies. b) Written rules for all children shall be established and available to children, parents and staff. These rules shall set the limits of behavior required for the protection of the group of individuals. The rules shall: 1) Pertain to important situations; 2) Be understandable to children; 3) Be stated in the positive form whenever possibly; and 4) Be enforceable. c) Child care staff shall help individual children develop self-control and assume responsibility for their own actions. Imposing physical activity or withholding active play shall not be used on children as a form of discipline. f) When there is a specific plan for responding to a child's pattern of unacceptable behavior, all staff who affect the child shall be aware of the plan and cooperate in its implementation. g) Clinical behavior management plans may be developed to meet the needs of a particular child if developed with the parent and a professional clinician. This must be documented in the child's file. All staff working with the child shall receive training on implementing the plan."

CONCLUSION:

The HRA **substantiates** the allegation of inadequate treatment. The provider record does not show effort to engage other resources to support the child's social-emotional or behavioral needs as mandated by Public Act 100-0105 and DCFS Licensing Standard 402.270. The toddler's behavior increased significantly once the daycare switched his classroom. The daycare provided informal logs documenting behavior beginning in March 2021, and the toddler's behaviors escalated in June and July 2021. The daycare did not start the process to develop a formal Behavior Plan until June 20, 2021. The daycare record also shows no evidence of reaching out to other available resources to provide further intervention services to the child. Although the daycare handbook informs a parent, they can terminate services with a child if they determine the child to be unsafe, the letter provided to the parent dated 7/12/21 has the statement "As a childcare provider for many children, we feel the duty to provide the same level of care to each individual child. Due to these behaviors, ongoing temporary removals and long attempts at re-direction have required frequent one on one attention from teachers and administration which has directly impeded other students' learning opportunities." The letter further explains that the daycare will work with the parent to seek transition of services, but nothing in the record provided by the daycare shows them actually trying to support the child and transition him to another daycare setting as required by DCFS Licensing Standard 407.250.

The HRA also questions the facility developing a Behavior Plan for social-emotional or behavioral needs of a child without consultation from a professional clinician or even the child's primary care physician. DCFS Licensing Standard 402.270 Guidance and Discipline states: "(g) Clinical behavior management plans may be developed to meet the needs of a particular child if developed with the parent and **a professional clinician.** (emphasis added)" The daycare center's Parent Handbook explains the following "If the child demonstrates behavior that requires frequent 'extra attention' from the staff member, we may choose to develop and implement a behavior management plan." Further along in the Parent Handbook explains details about a Behavior Plan and "This plan would be developed in consultation with the parents and

would be consistent with the requirements of State Licensing rule. A behavioral report will be written by the teacher and/or administrator and signed by the parent to be placed in the child's file for tracking purposes if unmanageable behavior continues." The Termination Policy section of the handbook also communicates "We reserve the right to discontinue services for any reason by giving you two weeks written notice." This information is confusing and contrary to what happened in this case, in which, the daycare terminated services.

The HRA makes the following **RECOMMENDATIONS:**

- The daycare needs to update their Parent Handbook with a step-by-step guide for parents/guardians as to how the daycare will create a Behavior Plan and who is involved with creating that plan that also aligns with DCFS Licensing Rule 402.270. Stop terminating services with children within the age of 0-5 under the ruse of unsafe behavior when a formal Behavior Plan has not been created with parent, professional clinician, has not been implemented within the classroom or staff have not been trained on the plan per DCFS Licensing Rule 402.270.
- Provide evidence to the HRA that the Parent Handbook has been updated and that the facility is in compliance with termination services per 402.270

The HRA suggests:

- The daycare improve their record keeping, documentation process and communication with parents.
- The daycare improve their process for implementing Behavior Plans.
- The daycare needs to ensure they facilitate "planned transitions" for children in need of alternative daycare arrangements per state mandates. If communication does not work with one parent, then if there is another parent involved, they should be the point of contact for communications to maintain focus on supporting the child's need for services.
- The daycare update their handbook to include contact information for the DCFS Licensing Unit for questions or concerns.
- The daycare update their handbook to provide parents with resources available to help address children's needs and behaviors listed in the Governor's Office of Early Childhood Development "P.A. 100-0105: Prevention Expulsion of Children Birth to Five-Frequently Asked Questions" document.
- Provide communication to the daycare's current parents/caretakers on changes made to the Parent Handbook. This can be evidenced by providing a monthly newsletter, email to daycare parents or letter sent by the daycare.

Complaint #2 - The daycare center violated the rights of one of the children in their care when they did not collaborate with the parent on a behavior plan to support the medical or behavioral concerns of a child, for whom they provide supervision.

The HRA reviewed a State of Illinois Certificate of Child Health Examination which is best described as a routine physical form. This form was completed April 17, 2020 and is signed by an Advanced Nurse Practitioner and documents the health history of the child as having a “Diagnosis of asthma, Child wakes during the night”. The question “Developmental Disability?” has the word “no” circled next to it. Further along on the document there is conflicting information where the section titled “System Review” and “Respiratory” is marked “normal” and the box for “Diagnosis of Asthma” is not checked. There is another section on this form titled “Mental Health/Other Is there anything else the school should know about this student?” and there is nothing written in this section of the form. This form also states “To be completed and signed by parent/guardian and verified by Health Care Provider.”

The HRA observes in the record two documents developed in the month of June 2021 called “Behavior Intervention Plan For (Service Recipient) developed by: Geneseo Child Care with input from (Service Recipient’s parents).” The parents then responded on June 28, 2021 with their own document titled “Behavior Plan Template for: (Service Recipient) developed by: Geneseo Child Care and parents of (Service Recipient, Parents)”. Neither of these documents a clinical or medical diagnosis. The daycare document created on or around June 20, 2021 identify the behavior intervention goals of “Review often the classroom rules and expectations at school and at home: inside voices, walking feet, soft hands, always be kind” and “Explain the behavior tracking record sheet. Review the list of interventions to help with being overstimulated, the child will be redirected and encouraged to use the following interventions: ...” The parent’s document dated June 28, 2021 has a section titled “Thoughts and Questions to ponder” and in this section states “Aggressive acts often emerge when toddler feels overwhelmed by a distressing situation or by difficult feelings. Toddlers do not have impulse control; emotions will trump thinking skills almost every time. This is a sign that the child is out of control and needs help to regulate.”

Based on information gathered during the site visit and no formal signatures on the document, the daycare director did not agree with the plan presented by the parent. The daycare director provided a text message communication thread on June 30, 2021 indicating that the daycare director and the parent reviewed and were in discussions about the behavior plan.

During the month of July 2021 the “Behavior Tracking Sheet” documents daily behaviors described as “hitting, spitting, pushing and hitting peers with toys” from July 1, 2021-July 9, 2021. The HRA notes that beginning on July 7, 2021, there is a line at the bottom of this form for a parent signature. This is not observed on the previous tracking sheets. The tracking sheet for July 7, 2021 documents 6 behaviors and the daycare

director attempted to contact both parents to have them pick up the child at 3:15pm but neither answered. The child was picked up by the father at 3:51pm. On July 9, 2021 the "Behavior Tracking Sheet" documents 3 behaviors of "spitting, climbing to top of fence, and screaming". According to the sheet, the child's foster parent was called at an unknown time and the child goes home.

On July 6, 2021, the daycare provided an email correspondence initiated by a parent at 9:45am. The email reads "Hey- Thanks for giving me some time to review and add changes. ... We have a ton of stuff at our house that we can bring. Of course, this would be for the whole class to use. I am looking into a cover for his weighted blanket so he can have one at daycare. I can wash the weighted blanket, but it really unbalances the washer and cannot be dried. I do have a weighted lap pad that we can bring in, that the classroom can use. Let me know a day and time that we can meet to discuss the behavioral plan. We are usually available on Mondays, Thursdays, and Fridays after 4pm. His OT, DT and his early intervention plan want to attend the meeting as well." This email has two pdfs. attachments titled "[Service Recipient] Behavior Plan" and "Calming Statements". The message is forwarded to the other daycare director/owner at 9:56am but the text is not able to be read by the HRA and says "[Quoted text hidden]"

DCFS Licensing Standards for Daycare Centers Subpart F: Structure and Safety Section 402.270 Guidance and Discipline states in: "Subpart G: Health and Hygiene Section 407.310 Health Requirements for Children "a) A medical report on forms prescribed by the Department shall be on file for each child. ... k) When a child's medical needs require special care or accommodation, the care shall be administered as required by a physician, subject to receipt of appropriate releases from the parent or parents. Medical consultation shall be available to the staff as needed for the health and medical needs of the children served."

DCFS Licensing Standards for Day Care Centers Subpart F: Structure and Safety Section 407.250 Enrollment and Discharge Procedures "a) The day care center shall enroll only those children eligible under the center's written enrollment policies. The center shall not use eligibility criteria that screen out children with disabilities, and shall make reasonable modifications in policies, practices and procedures to accommodate children with disabilities. ... 9) Provision for emergency medical care, treatment of illness and accidents, which includes: ... B) A plan for immediately notifying the parent of any illness, accident or injury to the child, ... 14) Guidance and discipline policy; 15) Planned means of communication between the center and the parents; 17) Behavior Support and program transition policies. ... e) The day care center may ask parents to share professional evaluations during the enrollment process when necessary to determine how best to meet the needs of the child. F) Parents shall be informed of and agree to any variations in regular procedures undertaken to meet the specific needs of their child. ...i) The day care center shall maintain a record on all children enrolled in the center to help staff plan effectively to meet each child's individual needs. 1) A written enrollment application shall be on file for each child with the signatures of the enrolling parents. The application shall contain the following information: ...j)Infants, toddlers and preschool age children who, after documented attempts have been made to meet the

child's individual needs, demonstrate an inability to benefit from the type of care offered by the facility, or whose presence is detrimental to the group, shall be transitioned to a different program k) For infants, toddlers and preschool age children, in all instances when a facility decides that it is in the best interest of the child to transition to a different program, the child's and parents' needs shall be considered by planning with the parents to identify the new program, and working with the parents and pending program on a transition plan designed to ensure continuity of services to meet the child's needs. Licenses shall adhere to the following requirements regarding program transition plans: 1) All day care centers shall have written transition policies that outline circumstances in which children may transition out of the program and what the transition process entails; 2) Providers shall notify the Department of transition plans; ... 1) Providers of children to infants, toddlers or preschool age children shall maintain documentation regarding steps taken to ensure that the child can participate safely in the program, in accordance with the behavior support plan and program transition policy. This shall include attempts to utilize qualified professional resources, including when parental consent is attempted and whether it is obtained. m) Early intervention services received by children shall be documented in the behavior support plan. Providers shall also document whether children are evaluated by the Early Intervention Program and/or the school district and, with regard to those children evaluated, whether they are found eligible or ineligible to receive services. ...”

CONCLUSION:

The HRA finds the allegation that the daycare did not collaborate with the parent on a behavior plan to support the medical or behavioral concerns of a child **unsubstantiated**. The DCFS Licensing Standard 407.250 reads “e) The day care center may ask parents to share professional evaluations during the enrollment process when necessary to determine how best to meet the needs of the child. F) Parents shall be informed of and agree to any variations in regular procedures undertaken to meet the specific needs of their child ... j)Infants, toddlers and preschool age children who, after documented attempts have been made to meet the child's individual needs, demonstrate an inability to benefit from the type of care offered by the facility, or whose presence is detrimental to the group, shall be transitioned to a different program”. The record reflects communication with the parent/caretaker on several occasion throughout the year of enrollment, but behaviors escalated in June-July 9, 2021, when the daycare ultimately terminated services. Communication with the parent is documented in the record provided, although, the HRA questions what suggestions were made to support the transition to a different daycare provider as this information is not included. The HRA did review evidence of daycare staff communicating with the parent/guardian trying to schedule a time to meet about creating and implementing the Behavior Management Plan, but the relationship broke down before a formal plan could be signed by all parties. The HRA does have a concern that the daycare was not sending home “Behavior Thinking Sheets” per their policy or documenting when social-emotional or behavioral information was communicated to the parent to consistently notify them of daily behavior issues. No medical diagnosis or concerns are discussed by the parent and the daycare provider nor documented to be of concern in the record provided.

The HRA strongly suggests:

- The daycare follow its own Parent Handbook guidelines on behavior discipline procedures and how they communicate social-emotional or behavior concerns in writing to a child's parent/caretaker.
- If a 0-5 age child is displaying social-emotional or behavioral concerns the daycare should encourage the parent to have the child seen by a primary care physician to ensure there is not an underlying medical issue such as an ear infection or teething issues.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, provider responses appear verbatim in retyped format.

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 22-090-9001

SERVICE PROVIDER: – Geneseo Child Care

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

Tyler Robertson
NAME

Owner
TITLE

6/22/2022
DATE



HRA - Peoria Regional Office
401 Main St, Ste 620
Peoria, IL 61602

June 22nd, 2022

Dear Human Rights Authority,

This letter is in response to Case#22-090-9001.

Complaint #2 was found to be unsubstantiated, and Geneseo Child Care agrees with this decision. The daycare center will continue to follow its current guidelines found in the Parent Handbook and encourage parents to seek the opinion of a primary care physician when social-emotional or behavioral concerns are displayed to ensure the children have no underlying conditions such as ear infection or teething issues as suggested by the HRA.

Complaint #1 was found as substantiated; however, Geneseo Child Care does not agree with this determination. The HRA notes the lack of physical documents to engage other resources to support the child's social-emotional or behavioral needs and questions whether a behavior plan was developed using information from outside professional clinicians and/or a primary care physician. Geneseo Child Care was under the impression that the HRA would be investigating the complaint beyond what just the daycare could provide. The HRA did not seek documents, emails, or phone records, that the business was made aware of, from the [REDACTED], who has a [REDACTED]. Neither did they seek documents from the Developmental Therapists, or Occupational Therapists which were allowed to conduct meetings at the daycare facility in person as well as via Zoom which would have provided such additional documentation explaining how the Director, Teachers, and other staff provided feedback and support in collaboration with their outside professional recommendations. Geneseo Child Care has updated



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its policy to require daily documentation going forward from any outside persons or entities including those listed therapists going forward. A calendar was also provided to the HRA showing the dates of these visits and believe this serves as an agreed upon collaboration plan between the Foster Parents and Geneseo Child Care to support the child's challenging behavior. Beyond these scheduled visits, Geneseo Child Care agreed to support this child with modified classroom structure (layouts), modified classroom daily schedule (e.g., shortening circle time), increased staffing to child ratio, and decreased overall class size, as was explained in the staff interviews. These actions were not written up formally but were part of an agreed upon and verbalized plan to support the child. The HRA subjectively believes all these actions to be considered "not providing adequate treatment to meet the behavioral and medical needs of a child for whom they are contracted to provide supervision and care."

Geneseo Child Care was not made aware of any medical needs by the Foster Parents other than a diagnosis of asthma prior to or after enrollment of the child. The Foster Mother and primary health care provider signed off on this on the provided State of Illinois Certificate of Child Health Examination. Further, form CFS 428 Record of Child Information does not indicate any behavioral or medical condition beyond allergies. Geneseo Child Care has added a section into their Parent Handbook requiring parents to inform us, "If a child already has a behavior plan, IEP or IFSP created by another daycare or any other entity, or a medical diagnosis that affects their behavior, then copies of these plans are required to be provided to Geneseo Child Care prior to enrollment or whenever the plan is created/modified."

Geneseo Child Care also questions the HRA on its chosen verbiage recommending that Geneseo Child Care, "stop terminating services with children with the age of 0-5 under the rouse of unsafe behavior when a formal Behavior Plan has not been created with parent, professional clinician, has not been implemented within the classroom or staff have not been trained on the plan per DCFS Licensing Rule 402.270" The HRA was provided 61 logged behaviors from multiple teachers of which the HRA tallies 27 were violent nature, including hitting, kicking, and choking of staff and peers. There are more documented, but the HRA does not disseminate them



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further. It would be Geneseo Child Care's opinion that the HRA has a blatant disregard for the health and safety of Geneseo Child Care's other children and staff by calling this a ruse. Immediate safety threats to the health and safety of staff and other children in our care is not taken lightly. Many attempts at temporary removal of the child from the group including 1:1 teacher time, and/or calling the Foster Parents to pick up the child (whom sometimes would not answer) were all actions that led into accelerated transition. The center took action to stop these immediate health and safety threats and at its discretion with the accelerated transition of the child for the well-being of others. The recommendation of creating a written plan will be used in the future, but not at the detriment of health and safety to others.

Ultimately, it was in the best interest of all parties for Geneseo Child Care to discontinue communication with the [REDACTED] which ended any further partnership on transition. The [REDACTED] had admitted to the Director that [REDACTED] recorded a conversation without consent which is against IL State Law. Then after notification that Geneseo Child Care would work with them on a transition in a formal letter, the [REDACTED] filed an informal complaint with DCFS (a site visit was completed and determined unfounded by DCFS), then later followed up with complaints to the HRA. While the HRA suggestions call for "if communication does not work with one parent, then if there is another parent involved, they should be the point of contact for communications to maintain focus on supporting the child's need for services," we find that this is generally best practice and reasonable to suggest, and it will be taken into consideration for future cases. However, in this case, the breakdown relationship and in trust between the Foster Parents and Geneseo Child Care was too severe to continue communication.

Geneseo Child Care's policies regarding DCFS licensing section 407.270 had already been approved by DCFS, but this part of the Parent Handbook was improved at the recommendation of the HRA. Other suggestions from the HRA have also been amended into Geneseo Child Care's Parent Handbook and a new copy has been provided to the HRA.



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We do understand the amount of effort and time the HRA has put into its reporting and investigative process and thank everyone involved for their time and considerations. We would also agree that any improvements to our business process, policy, and care for children is a positive outcome of the time committed to this case. Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler and Renee Robertson". The signature is written in a cursive style with some loops and flourishes.

Tyler and Renee Robertson
Owners
Geneseo Child Care LLC



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