



BRIGHT FROM THE START
Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, Georgia 30334
(404) 656-5957

Nathan Deal
GOVERNOR

Bobby Cagle, MSW
COMMISSIONER

July 23, 2013

CERTIFIED MAIL #7012 3460 0002 0739 7869

Ms. Carolyn Deberry
Registered Agent
Chief Executive Officer
First Start, Inc.
d/b/a Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

REGULAR MAIL AND HAND DELIVERY

Mr. Kuwan Tyehimba
Director
Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

RE: Notice of Revocation

Dear Ms. Deberry and Mr. Tyehimba:

Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) determined that correctable deficiencies in the operation or management of the center existed and had not been sufficiently corrected at Little Peoples Learning Center located at 2755 Flat Shoals Road, College Park, Georgia 30349, as evidenced by continued non-compliance with the rules governing licensed Child Care Learning Centers. Little Peoples Learning Center was issued an enforcement fine on June 5, 2013, for failure to account for the loading and unloading of children or to properly check the vehicle to ensure all children had exited the vehicle during transportation, as determined during a complaint investigation and monitoring visit conducted on April 19, 2013. On May 14, 2013, Bright from the Start conducted a complaint investigation and monitoring visit and again determined that the center staff failed to account for the loading and unloading of children or to properly check the vehicle to ensure all children had exited the vehicle during transportation. On May 23, 2013, Bright from the Start conducted a monitoring and plan of improvement follow-up visit and determined for a third time that the center staff failed to account for the loading and unloading of children or to properly check the vehicle to ensure all children had exited the vehicle during transportation. On June 24, 2013, Bright from the Start conducted a complaint investigation and determined for a fourth time that the center staff failed to account for the loading and unloading of children or to properly check the vehicle to ensure all children had exited the vehicle during transportation.

It was also determined as a result of the complaint investigation conducted on June 24, 2013, that rule violations occurred which jeopardized the health and safety of a child in care. Specifically, a six-year-old child received a serious head injury during a field trip on June 20, 2013. The staff person responsible for the child's supervision did not seek timely and appropriate medical attention or contact the parent to report the injury, which resulted in delayed medical attention.

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In addition, it was determined during the monitoring and plan of improvement follow-up visit conducted on May 23, 2013 that rule violations previously cited continued to exist and that the child care learning center had not taken adequate measures to correct them and to maintain compliance. These rule violations, which were previously cited on December 17, 2012, January 4, 2013, January 31, 2013, April 19, 2013 and May 14, 2013 and discussed at technical assistance visits conducted on October 12, 2012 and November 27, 2012, had the potential to seriously affect the health and safety of the children in care. An office conference was conducted with you on January 16, 2013 to discuss rule violations and improvement actions; however, the plan of improvement was neither followed nor implemented by Little Peoples Learning Center, thereby jeopardizing the health and safety of children in care.

On June 26, 2013, Bright from the Start issued an Order for Intended Emergency Closure of Little Peoples Learning Center. This order was appealed by Little Peoples Learning Center, and the matter was heard before OSAH on July 1, 2013 during which Bright from the Start's Order of Emergency Closure was affirmed.

The documents describing the rule violations for which Bright from the Start is basing the revocation are attached to this letter and incorporated by reference. The rule violations associated with the visits conducted on April 19, 2013, May 14, 2013, May 23, 2013 and June 24, 2013 are described in Exhibits "A", "B", "C", and "D" respectively. The rule violations associated with the visits conducted on December 17, 2012, January 4, 2013, January 31, 2013, April 19, 2013, May 14, 2013, May 23, 2013 and June 24, 2013 are described in Exhibit "E". The June 26, 2013 Order for Intended Emergency Closure is attached as Exhibit "F" and the July 3, 2013 Order Affirming Emergency Closure issued by the Office of State Administrative Hearings is attached as Exhibit "G". These violations show flagrant deficiencies that constitute shocking and intentional misconduct.

Based on the facility's continued noncompliance with the Bright from the Start Rules for Child Care Learning Centers which demonstrates an intentional and reckless disregard for the health and safety of the children in care, the licensee is hereby notified that the license to operate Little Peoples Learning Center is revoked. Bright from the Start's legal authority for revoking the license is found in O.C.G.A. Sec. 20-1A-12(b)(3) and (5), 20-1A-12(c)(5), and 20-1A-10(r), and Bright from the Start's Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of the Rules and Regulation of the State of Georgia.

In accordance with O.C.G.A. Sec. 20-1A-10(o), this revocation becomes effective 30 days from receipt of this Notice. The licensee has the right to appeal the decision to revoke the license by filing a written request for an administrative hearing before an Administrative Law Judge with the Office of State Administrative Hearings. The request must be made in writing within 10 days of receipt of this Notice and addressed to:

Ira Sudman
Chief Legal Officer
Bright from the Start
Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive, Suite 754, East Tower
Atlanta, Georgia 30334

A hearing request stays or suspends the revocation.

If the licensee does not appeal this action within 10 days of receipt of this Notice, the decision to revoke the license will be final. Licensure staff will conduct a follow-up visit to verify closure.

Sincerely,



Brenda Haynesworth
Child Care Services Director for Program Operations

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Attachments

cc: Kristie Lewis
Ira Sudman
Elisabetta Kasfir
Janine Joseph
Candy Prince
Meggan Hemans-Reese
Jackie Shivers
Pam Bojo
Jimmy Wilson
Sherry Smith
Rhonda Parker
Earlene Huston
State File



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2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, Georgia 30334
(404) 656-5957

Nathan Deal
GOVERNOR

Bobby D. Cagle, MSW
COMMISSIONER

June 5, 2013

CERTIFIED MAIL #7012 3050 0000 9729 4436

Ms. Carolyn Deberry
Registered Agent
Chief Executive Officer
First Start, Inc.
d/b/a Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

REGULAR MAIL

Mr. Kuwan Tyehimba
Director
Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

RE: Notice of Intent to Impose Enforcement Fine

Dear Ms. Deberry and Mr. Tyehimba:

On June 29, 2012, Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) informed the licensee by e-mail that Bright from the Start would use its enforcement authority and responsibility to take action when child care programs fail to comply with rules governing transportation. The e-mailed letter also informed the licensee that licensing staff would closely monitor compliance with transportation rules and directed the licensee to important resources that included an overview of transportation rules.

On April 19, 2013, a complaint investigation and monitoring visit were conducted at Little Peoples Learning Center located at 2755 Flat Shoals Road, College Park, Georgia 30349. It was determined that the center was out of compliance with transportation rules that had the potential to seriously affect the health and safety of children who were transported. Specifically, center staff did not account for the loading and unloading of children and did not properly check the vehicle to ensure all children had exited the vehicle. The rule violations for which Bright from the Start is imposing an enforcement fine are attached as Exhibit "A", the April 19, 2013 visit is attached as Exhibit "B" and both are incorporated in this Notice by reference.

Based on the facility's noncompliance with the Bright from the Start Rules for Child Care Learning Centers, the licensee is hereby notified of Bright from the Start's intent to impose an enforcement fine in the amount of \$299. Bright from the Start's legal authority for imposition of an enforcement fine is found in O.C.G.A. Sections 20-1A-4(2) and (5) and 20-1A-11(b)(1)(A), and the Bright from the Start Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of the Rules and Regulations of the State of Georgia.

EXHIBIT "A"
(4 Pages)

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The licensee is also advised that the failure to correct and maintain compliance with this and other transportation rules will result in further adverse action which could include the revocation of the license to operate Little Peoples Learning Center, the imposition of daily fines for each day the violations continue, the imposition of enforcement fines for each transportation rule violation, the placement of emergency monitors, the restriction of transportation services, and the order of emergency closure. Licensure staff will conduct a follow-up visit to determine compliance with the rules.

The licensee has the right to appeal the decision to impose the enforcement fine by filing a written request for an administrative hearing before an Administrative Law Judge with the Office of State Administrative Hearings. You also have the opportunity to show in writing why this enforcement fine should not be imposed. The request for a hearing and/or statement as to why the enforcement fine should not be imposed must be made in writing within ten (10) days of receipt of this Notice and addressed to:

**Ira Sudman
Chief Legal Officer
Bright from the Start
Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive SE, Suite 754, East Tower
Atlanta, Georgia 30334**

A hearing request stays or suspends the imposition of the enforcement fine.

If the licensee does not appeal this action within ten (10) days of receipt of this Notice, the decision to impose an enforcement fine will be final. Payment of the enforcement fine, by certified check or money order, would then be expected within thirty (30) days of receipt of this Notice. The certified check or money order should be made payable to Bright from the Start: Georgia Department of Early Care and Learning and mailed to me at the above address. Complete the enclosed Request for Taxpayer Identification Number and Certification and return the form with your certified check or money order. If you do not pay the fine as finally determined by Bright from the Start, the license to operate the facility will be revoked.

Sincerely,

Brenda Haynesworth
Child Care Services Director of Program Operations

Attachments

cc: Kristie Lewis
Ira Sudman
Elisabetta Kasfir
Janine Joseph
Candy Prince
Meggan Hemans-Reese
Jackie Shivers
Monica Warren
Glenda McMillan
Sherry Smith
Rhonda Parker
Earlene Huston
State File

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List of Rule Violations for:

Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

- 1. Rule 591-1-1-.36(6)(d) requires, for vehicles without child safety alarm devices, a staff person who was present on the vehicle during the trip to thoroughly check the vehicle and then the director or designated staff person who was not on the vehicle to thoroughly check the vehicle a second time and sign the passenger transportation checklist with their full name, indicating all of the children have exited the vehicle.**

During a complaint investigation and monitoring visit conducted on April 19, 2013, transportation records for the week of April 15, 2013 through April 19, 2013 were reviewed. It was determined that neither the staff person on the vehicle nor the director or designated staff person who was not present on the vehicle checked the vehicle to ensure all children had exited the vehicle after transporting children from school to the center on April 19, 2013. There were signatures on the passenger transportation checklists for school to center transportation that day; however the transportation records were reviewed and the signatures observed before 1:15 p.m., when the consultant left the center. The after school transportation had not yet taken place. In addition, the staff person whose signature was on the checklist as the staff person on the vehicle was not present at the facility on April 19, 2013.

It was determined that on the morning of April 19, 2013 children were picked up from the center and from home and transported to school. There was no documentation to verify that the vehicle was checked by the staff person who was present on the vehicle to ensure all children had exited the vehicle. There was also no documentation to verify that the director or designated staff person who was not on the vehicle conducted a second check of the vehicle.

Also on the morning of April 19, 2013, center staff transported a toddler to the center and arrived at about 7:00 a.m. The consultant observed that the driver did not check the vehicle, nor did the director or other designated staff person check the vehicle to ensure all children had exited the vehicle. There was also no documentation to indicate the vehicle was checked.

The failure of center staff to check the vehicle to ensure all children had exited the vehicle could possibly place children at risk of harm.

- 2. Rule 591-1-1-.36(6)(c)3. Requires that the driver or other designated person immediately document in writing, with a check or other mark/symbol on the checklist, each time a child gets on and off the vehicle.**

During a complaint investigation and monitoring visit conducted on April 19, 2013, transportation records for the week of April 15, 2013 through April 19, 2013 were reviewed. It was determined that there was no documentation that center staff checked children on and off the vehicle during transportation conducted on the morning of April 19, 2013. Children also were not checked on and off the vehicle during afternoon transportation from school to the center on April 19, 2013, as the passenger transportation checklist was completed before the transportation took place.

The failure of the center staff to document the loading and unloading of children could possibly place children at risk of harm.

3. **Rule 591-1-1-.36(6)(c) requires the center to use passenger transportation checklists, in a format approved by the Department, to account for each child during transportation.**

During a complaint investigation and monitoring visit conducted on April 19, 2013, transportation records for the week of April 15, 2013 through April 19, 2013 were reviewed. It was determined that center staff did not use a transportation checklist to account for each child during transportation conducted on the morning of April 19, 2013, when children were transported from the center and from home to school.

The failure of the center staff to use an approved passenger transportation checklist to account for each child during transportation could possibly place children at risk of harm.

Rule Violations for:

Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

1. **Rule 591-1-1-.36(6)(d)1. requires that following transportation, for vehicles without child safety alarm devices, a staff person who was present on the vehicle during the trip physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior. The staff person must then sign the passenger checklist with his/her full name, indicating that all of the children have exited the vehicle, and give the checklist to the director or designated staff person at the center who will also check the vehicle as stated above and sign the checklist with his/her full name.**

During a monitoring and complaint investigation visit conducted on May 14, 2013, transportation records were reviewed. It was determined that during the morning transportation of May 14, 2013, a staff person who was present on the vehicle did not physically check the vehicle to ensure no children remained upon returning to the center after transporting children from the center to school. In addition, the director or designated staff person who was not present on the vehicle did not conduct a second physical check of the vehicle after children were transported from the center to school on the morning of May 14, 2013.

It was further determined that neither the staff person present on the vehicle nor the director or designated staff person who was not present on the vehicle signed a passenger checklist to indicate that a first and second check of the vehicle was conducted to ensure no child remained after children were transported to school from the center on May 14, 2013.

This rule was previously cited on April 19, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to physically check the interior of the vehicle and sign the passenger checklist at the time of the check could possibly place children at risk of harm.

2. **Rule 591-1-1-.32(6)(c) requires the center to use passenger transportation checklists, in a format approved by the Department, to account for each child during transportation.**

During a monitoring and complaint investigation visit conducted on May 14, 2013, transportation records were reviewed. It was determined that no passenger checklist was used during the transportation of children from the center to school during the morning of May 14, 2013.

This rule was previously cited on April 19, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to use a passenger transportation checklist in a format approved by the department could possibly place children at risk of harm.

3. **Rule 591-1-1-.32(6)(c)3. requires that the driver or other designated person immediately document in writing with a check or other mark/symbol on the checklist, each time a child gets on and off the vehicle .**

During a monitoring and complaint investigation visit conducted on May 14, 2013, transportation records were reviewed. It was determined that the driver or other designated staff person did not document with a check or other mark each time children were loaded and unloaded from the vehicle during school transportation on the morning of May 14, 2013 as no transportation checklist was completed during the course of transportation.

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This rule was previously cited on April 19, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to document with a check or other mark when children get on and off the vehicle as it occurs could possibly place children at risk of harm.

Rule Violations for:

Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

- 1. Rule 591-1-1-.36(6)(d)1. requires that following transportation, for vehicles without child safety alarm devices, a staff person who was present on the vehicle during the trip physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior. The staff person must then sign the passenger checklist with his/her full name, indicating that all of the children have exited the vehicle, and give the checklist to the director or designated staff person at the center who will also check the vehicle as stated above and sign the checklist with his/her full name.**

During a monitoring and plan of improvement follow-up visit conducted on May 23, 2013, transportation records were reviewed. It was determined that the staff person who was present on the vehicle for the school routes did not conduct the first check of the vehicle upon returning to the center from SL Lewis Elementary School on the afternoon of May 22, 2013 and May 23, 2013, and from LT Nolan Elementary School during the morning and afternoon of May 23, 2013. It was further determined that the director or designated person who was not present on the vehicle failed to conduct a second check of the vehicle during school transportation from Bethune Elementary School on the mornings of May 20, 2013, May 21, 2013 or May 23, 2013; from Campbell Elementary School on the afternoons of May 20, 2013, May 21, 2013 or May 22, 2013; from SL Lewis Elementary School during the afternoon of May 22, 2013; and from LT Nolan Elementary School during the morning or afternoon of May 23, 2013.

The review of transportation records further revealed that the staff person on the vehicle did not sign the passenger checklist verifying that first check of the vehicle was completed upon returning to the center from the afternoon school route to SL Lewis Elementary School on May 22, 2013 and the morning and afternoon transportation from LT Nolan Elementary School. In addition, the director or designated staff person did not sign the passenger checklist verifying that a second check of the vehicle was completed during school transportation from Bethune Elementary School on the mornings of May 20, 2013, May 21, 2013 or May 23, 2013; from Campbell Elementary School on the afternoons of May 20, 2013, May 21, 2013 or May 22, 2013; from SL Lewis Elementary School during the afternoon of May 22, 2013; and from LT Nolan Elementary School during the morning or afternoon of May 23, 2013.

This rule was previously cited on April 19, 2013 and May 14, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to physically check the interior of the vehicle and sign the passenger checklist at the time of the check could possibly place children at risk of harm.

- 2. Rule 591-1-1-.32(6)(c)3. Requires that the driver or other designated person immediately document in writing with a check or other mark/symbol on the checklist, each time a child gets on and off the vehicle.**

During a monitoring and plan of improvement follow-up visit conducted on May 23, 2013, transportation records were reviewed. It was determined that the driver or other designated staff person did not document with a check or other mark each time children were loaded and unloaded from the vehicle on May 23, 2013 upon the completion of afternoon routine transportation when the consultant observed that no transportation checklist was completed.

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This rule was previously cited on April 19, 2013 and May 14, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to document with a check or other mark when children get on and off the vehicle as it occurs could possibly place children at risk of harm.

Rule Violations for:

Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

1. **Rule 591-1-1-.36(6)(d)1. requires that following transportation, for vehicles without child safety alarm devices, a staff person who was present on the vehicle during the trip physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior. The staff person must then sign the passenger checklist with his/her full name, indicating that all of the children have exited the vehicle, and give the checklist to the director or designated staff person at the center who will also check the vehicle as stated above and sign the checklist with his/her full name.**

During a complaint investigation visit conducted on June 24, 2013, transportation records were reviewed for a field trip to the D.H. Stanton Waterpark on June 20, 2013. It was determined that a staff person who was present on the vehicle did not physically check the vehicle after unloading children at the field trip site or upon return to the center. It was further determined that the director or designated staff person at the center did not conduct a second check of the vehicle after returning to the center from the D.H. Stanton Waterpark on June 20, 2013.

Review of field trip transportation records further revealed that on June 20, 2013, a staff person who was present on the vehicle during a field trip to the D.H. Stanton Waterpark did not sign the passenger checklist indicating the vehicle was checked after unloading the children at the field trip site or upon return to the center. It was further revealed that the director or designated staff person at the center did not sign the passenger checklist indicating a second check of the vehicle had been conducted after returning to the center from the D.H. Stanton Waterpark of June 20, 2013.

This rule was previously cited on April 19, 2013, May 14, 2013 and May 23, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to physically check the interior of the vehicle and sign the passenger checklist at the time of the check could possibly place children at risk of harm.

2. **Rule 591-1-1-.36(6)(c)3. requires the driver or other designated person immediately document in writing, with a check or other mark/symbol on the checklist, each time a child gets on and off the vehicle so that each child is accounted for every time the vehicle is loaded or unloaded.**

During a complaint investigation visit conducted on June 24, 2013, transportation records were reviewed for a field trip to the D.H. Stanton Waterpark on June 20, 2013. It was determined that there was no documentation that center staff checked each child on and off the vehicle at the field trip site or upon return to the center.

This rule was previously cited on April 19, 2013, May 14, 2013 and May 23, 2013, and an enforcement fine was issued on June 5, 2013.

The failure of the center staff to document with a check or other mark when children get on and off the vehicle as it occurs could possibly place children at risk of harm.

3. **Rule 591-1-1-.32(6) requires that children be supervised at all times and that staff provide oversight and timely attention.**

During a complaint investigation visit conducted on June 24, 2013, it was determined that children were not adequately supervised during a field trip to the D.H. Stanton Waterpark on June 20, 2013. It was determined that during the field trip, a six-year-old child sustained an injury to the head when he fell from a play structure. It was further determined that the staff person, who was made of the injury by other children, failed to properly intervene and ensure that the child received proper and timely medical attention. This resulted in the child's injury remaining untreated until later in the day when the parent took the child to the emergency room and the child received four sutures to the back of his head.

The failure of the center staff to provide proper and adequate supervision could possibly place children at risk of harm.

4. **Rule 591-1-1-.07(2) requires that parents be immediately notified of a child's illness or injury when professional medical attention is required.**

During a complaint investigation visit conducted on June 24, 2013, it was determined that the parents of a six-year-old child were not immediately notified when the child received an injury during a field trip on June 20, 2013. The investigation revealed that the child received an injury to the head that required four sutures around lunch time on June 20, 2013. The parent was not notified until all the children were returned to the center at the end of the field trip and after the parent had arrived at the center to pick the child up.

The failure of the center staff to immediately notify parents of serious injury could possibly place children at risk of harm.

5. **Rule 591-1-1-.13(2) requires the center to obtain written, signed and dated parental permission prior to a child's participation if a field trip.**

During a complaint investigation visit conducted on June 24, 2013, it was determined that the center failed to obtain written parental permission for two of 18 children who participated in a field trip conducted on June 20, 2013 to the D.H. Stanton Waterpark. One of the children for whom there was no signed permission slip on file was injured at the field trip site, resulting in professional medical attention.

The failure of the center staff to secure written parental permission for field trips could possibly place children at risk of harm.

Rule Violations for:

Little Peoples Learning Center
2755 Flat Shoals Road
College Park, Georgia 30349

1. **A. Rule 591-1-1-.26(4) requires that playgrounds shall be protected from traffic or other hazards by a four (4) foot or higher secure fence or other barrier approved by this Department. Fencing material shall not present a hazard to children and shall be maintained so as to prevent children from leaving the playground area by any means other than through an approved access route and fence gates shall be kept closed.**

During a complaint investigation and monitoring visit conducted on April 19, 2013, it was determined that fencing was not free from hazards when the consultant observed a twelve inch opening near the bottom of one fence section which was not securely attached to the fence pole on the left side of the playground, and a drainage pipe which was creating a gap at the back fence of the playground.

B. Rule 591-1-1-.26(4) requires that playgrounds shall be protected from traffic or other hazards by a four (4) foot or higher secure fence or other barrier approved by this Department. Fencing material shall not present a hazard to children and shall be maintained so as to prevent children from leaving the playground area by any means other than through an approved access route and fence gates shall be kept closed.

During a complaint investigation and monitoring visit conducted on May 14, 2013, it was determined that fence gates were not kept closed when the consultant observed a fence gate to be open on the front right playground.

C. Rule 591-1-1-.26(4) requires that playgrounds shall be protected from traffic or other hazards by a four (4) foot or higher secure fence or other barrier approved by this Department. Fencing material shall not present a hazard to children and shall be maintained so as to prevent children from leaving the playground area by any means other than through an approved access route and fence gates shall be kept closed.

During a complaint investigation and monitoring visit conducted on May 23, 2013, it was determined that fencing was not free from hazards when the consultant observed a twelve inch opening near the bottom of one fence section which was not securely attached to the fence pole on the left side of the playground, and the fencing on the left side of the playground was observed to have a mesh netting material that was not secured to the fence and could snag clothing.

The failure of the center staff to provide safe and adequate playground fencing could possibly place children at risk of harm.

2. **A. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris and in good repair.**

During a licensing study conducted on December 17, 2012, it was determined that the center was not clean and in good repair when the consultant observed standing water flowing into the front hallway area, Classroom D and the kitchen as a result of a water leak from the kitchen sink. In addition, there was black trim detached and separated around the edges of the carpet in Classroom D, fraying carpet around the edges in the Infant/Toddler Room and two stained ceiling tiles over the crib area in the Infant/Toddler Room.

B. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris and in good repair.

During a monitoring and complaint investigation visit conducted on January 4, 2013, it was determined that the center was not clean and in good repair when the consultant observed a water leak beneath the kitchen sink requiring four large containers underneath the sink to catch the water. Black trim around the carpet in Room D was observed to be detached/separated around the edges and carpet was unraveling around the edges in the Room A where infants were housed. In addition, there were two stained ceiling tiles over the crib area in Room A, and one of the toilets in the twos/breakfast room was observed to be inoperable.

C. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris and in good repair.

During a monitoring and plan of improvement follow-up visit conducted on January 31, 2013, it was determined that the center was not clean and in good repair when the consultant observed cob webs throughout the top opening of doors that exited to the playgrounds and in the two's room on the right side of the kitchenette area, one of the toilets in the threes/fours bathroom had a leak with standing water observed on the floor in front of the toilet, and one of the faucets in the threes/fours room was broken resulting in water squirting upward and running down the side of the sink when the faucet was turned on.

D. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris, and in good repair.

During a complaint investigation and monitoring visit conducted on April 19, 2013, it was determined that the center was not clean and in good repair when the consultant observed one of the toilets in the girl's bathroom in Classroom C to be inoperable and with standing waste.

E. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris and in good repair.

During a complaint investigation and monitoring visit conducted on May 14, 2013, it was determined that the center was not clean and in good repair when the consultant observed one of the toilets in the girl's bathroom in Classroom C to be inoperable.

F. Rule 591-1-1-.25(3) requires that the center and surrounding premises be clean, free of debris and in good repair.

During a monitoring and plan of improvement follow-up visit conducted on May 23, 2013, it was determined that the center was not clean and in good repair when the consultant observed one of the toilets in the girl's bathroom in Classroom C to be inoperable.

The failure of the center staff to maintain the premises clean and in good repair could possibly place children at risk of harm.

3. A. Rule 591-1-1-.26(8) requires the playground to be kept clean, free of litter and hazards.

During a monitoring and plan of improvement follow-up visit conducted on January 31, 2013, it was determined that the playground was not clean and free of hazards when a water hose was observed in the toddler's outdoor play area.

B. Rule 591-1-1-.26(8) requires the playground to be kept clean, free of litter and hazards.

During a complaint investigation and monitoring visit conducted on April 19, 2013, it was determined that the playground was not clean and free of hazards when the consultant observed broken toys, pine cones and sweet gum balls accessible to children on the playground. A large active ant hill was also observed on the Toddler Playground.

C. Rule 591-1-1-.26(8) requires the playground to be kept clean, free of litter and hazards.

During a complaint investigation and monitoring visit conducted on May 14, 2013, it was determined that the playground was not clean and free of hazards when the consultant observed a broken drainage pipe accessible to children in the back of the left playground. Ants were also observed crawling on the small yellow bench located on the front left playground.

D. Rule 59-1-1-.26(8) requires the playground to be kept clean, free of litter and hazards.

During a monitoring and plan of improvement follow up visit conducted on May 23, 2013, it was determined that the playground was not clean and free of hazards when the consultant observed a broken drainage pipe accessible to children in the back of the left playground.

The failure of the center staff to maintain the playground free from hazards could possibly place children at risk of harm.

4. A. Rule 591-1-1-.26(6) requires that outdoor equipment be free of hazards such as lead-based paint, sharp corners, rust and splinters.

During a licensing study conducted on December 17, 2012, it was determined that a potential equipment hazard existed when a tricycle on the left side pre-school playground was observed to be missing both handle bars with the open ends creating a potential nesting area for bees.

B. Rule 591-1-1-.26(6) requires that outdoor equipment be free of hazards such as lead-based paint, sharp corners, rust and splinters.

During a monitoring and plan of improvement follow-up visit conducted on January 31, 2013, it was determined that a potential equipment hazard existed when the climbing equipment on the left playground was observed to have bolts exposed and protruding from the side where a piece of the equipment had been removed on the left playground.

C. Rule 591-1-1-.26(6) requires that outdoor equipment be free of hazards such as lead-based paint, sharp corners, rust and splinters.

During a monitoring and complaint investigation visit conducted on May 14, 2013, it was determined that a potential equipment hazard existed when the yellow bench on the front left playground was observed to be rotten and splintering. The bench was hollow in the middle where the rotten wood had been removed.

D. Rule 591-1-1-.26(6) requires that outdoor equipment be free of hazards such as lead-based paint, sharp corners, rust and splinters.

During a monitoring and plan of improvement follow-up visit conducted on May 23, 2013, it was determined that a potential equipment hazard existed when the yellow bench on the front left playground was observed to be splintering and was rotten with a hollow sinking in the middle of the bench.

July 23, 2013
Ms. Deberry
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The failure of the center staff to maintain outdoor equipment free from hazards could possibly place children at risk of harm.

**BEFORE THE STATE OF GEORGIA
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

IN THE MATTER OF:)
)
FIRST START, INC. D/B/A)
LITTLE PEOPLES LEARNING CENTER)

ORDER FOR INTENDED EMERGENCY CLOSURE

COMES NOW, Bright from the Start: Georgia Department of Early Care and Learning (“Bright from the Start”) and hereby issues this Order for Intended Emergency Closure of First Start, Inc. d/b/a Little Peoples Learning Center (“Center”), a licensed child care learning center located at 2755 Flat Shoals Road, College Park, Georgia 30349, in accordance with O.C.G.A. § 20-1A-13(c)(1)(B).

Bright from the Start has determined that the Center has violated the Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of Rules and Regulations for the State of Georgia (“Rules”), and has placed the health, safety, or welfare of children in imminent danger.

STATEMENT OF FACTS

RECENT HISTORY

On April 19, 2013, a Bright from the Start child care consultant visited the Center to conduct a complaint investigation and monitoring visit. The consultant determined that the Center was not using a transportation checklist to account for each child transported. This failure to use a transportation checklist resulted in the Center receiving citations for violating Rule 591-1-1-.36(6)(c), which requires centers to use a passenger checklist in a format approved by Bright from the Start to account for all children during transportation, Rule 591-1-1-.36(6)(c)3., which requires a center staff person on the vehicle to document

in writing each time a child enters or exits the vehicle, and Rule 591-1-1-.36(6)(d)1., which requires, for vehicles without child safety alarms, a staff person who was present on the vehicle during transportation to physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments and recesses in the vehicles interior, sign the passenger checklist indicating the check of the vehicle was completed and no child was left on the vehicle and then pass the checklist to the director or designee who was not on the vehicle during the trip to conduct the same check and also sign the transportation checklist.

Less than one month later on May 14, 2013, a Bright from the Start child care consultant again visited the center to conduct a complaint investigation and monitoring visit. The consultant found that despite being cited on April 19, 2013 for numerous transportation rule violations, the Center was still not using a transportation checklist to account for each child during transportation. The Center was again cited for violating Rules 591-1-1-.36(6)(c), 591-1-1-.36(6)(c)3. and 591-1-1-.36(6)(d)1. for failing to account for all children during transportation, failing to note when each child entered and exited the vehicle, failing to conduct a first check of the vehicle and failing to conduct a second check of the vehicle. After this visit, the Center provided Bright from the Start with an acceptable Plan of Improvement.

Nine days later on May 23, 2013, a Bright from the Start child care consultant visited the center to conduct a monitoring visit and follow up on the Center's Plan of Improvement. The child care consultant discovered that the Center had not implemented the Plan of Improvement and was not following any of the steps in the Plan of Improvement. Furthermore, while the Center was using transportation checklists approved by Bright from the Start, the Center was still not marking the checklist each

time a child entered or exited the vehicle or conducting a first or second check of the vehicle after transportation as required by Bright from the Start's Rules.

Based on the findings of the three visits that were conducted over a little more than a month long period, as well as the Center's history of repeated violations of Rules related to play ground hazards and failure to keep the Center in good repair, Bright from the Start decided to revoke the Center's license. Bright from the Start was in the process of drafting a Notice of Revocation to be delivered to the Center when it received another complaint about the Center.

JUNE 20, 2013 INCIDENT

On Friday, June 21, 2013, Bright from the Start received a complaint regarding the Center. The reporter stated that on June 20, 2013, a child had been taken on a field trip without parental permission, had been injured on the field trip, did not receive medical care, and the child's parents were not notified of the injury. Bright from the Start began an investigation into the complaint on Monday, June 24, 2013.

During its investigation, Bright from the Start found that the Center conducted a field trip to D.H. Stanton Park on June 20, 2013. The Center transported 18 children to the park even though only 16 had permission from parents to go. The Center knew that two of the children did not have permission but allowed them to attend the field trip anyway.

The children were transported to the park in an 18 passenger vehicle. In addition to 18 children, there were two adults on the vehicle. The vehicle was over crowded. The Center did not check each child on and off the vehicle (Rule 591-1-1-.36(6)(c)3.). The Center did not conduct a first check of the vehicle at the field trip destination or call the center to inform the director that the vehicle had been checked and no children were left on the vehicle (Rule 591-1-1-.36(6)(d)2.).

The Center vehicle left the Center at approximately 10:30 AM. While playing at the park, a six-year-old male child, whose parents had not given him permission to attend the field trip, was injured when he fell from a play structure. The injury occurred at approximately 1:00 PM. The child fell and cut the back of his head. At the time the child fell, the child's teacher was not supervising the child. The child's teacher did not know the child had been injured until other children in the group informed her.

The child's teacher applied ice to the wound but did not contact the child's parents or the Center director. The child's teacher did not get medical attention for the child. The child's teacher did not end the field trip and return to the Center.

At approximately 5:00 PM, the child's mother arrived at the Center to pick up her child. The child was not there because he had gone on a field trip he did not have permission to go on. As the child's mother waited for her child, the Center vehicle arrived. The child's mother witnessed her son exit the vehicle. He had a head wound that was still bleeding and there was blood on his clothing. The child's mother took the child for medical care, and he received four stitches to close the wound on his head.

Based on the Center's repeated Rule violations, the fact that Bright from the Start was in the process of drafting a Notice of Revocation and Bright from the Start's investigation into the June 20, 2013, incident, Bright from the Start finds that the health, safety, or welfare of children may be in imminent danger.

RULE VIOLATIONS

The Center has violated the following Rules:

1. Rule 591-1-1-.32(6) Supervision.

This rule requires that children be supervised at all times. On June 20, 2013, a six-year-old child was unsupervised on a field trip when he fell off a play structure and injured his head. The injury required four stitches.

2. Rule 591-1-1-.07(4) Children's Health.

This rule requires that center staff seek prompt emergency medical treatment for children in care. A child was injured on a field trip on June 20, 2013. The Center did not immediately seek emergency medical treatment for the child and failed to return the child to the Center until approximately four hours after the incident. The child's parent took the child for medical care, and the child received four stitches.

3. Rule 591-1-1- .36(6)(c)3. Passenger Transportation Checklists.

This rule requires that the vehicle driver or other designated person immediately document in writing, with a check or other mark/symbol on the checklist, each time a child gets on and off the vehicle so that each child is accounted for every time the vehicle is loaded or unloaded. On a field trip on June 20, 2013, Center staff failed to document each time a child got on or off the vehicle to ensure each child was accounted for.

4. Rule 591-1-1- .36(6)(d)1. Checking the Vehicle.

This rule requires, for vehicles without child safety alarm devices, that following transportation the driver or other designated person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior to confirm that all children have exited the vehicle. The Center conducted a field trip on June 20, 2013. Center staff failed to inspect the vehicle at the field trip destination and upon return to the Center to confirm that all children had exited the vehicle. Upon return to the Center, the director or his designee failed to conduct a second check of the vehicle.

5. Rule 591-1-1- .36(6)(d)2. Checking the Vehicle.

This rule requires, for vehicles without child safety alarms, that following transportation when the driver is the only staff person present, the driver shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior to confirm that all children have exited the vehicle. After the driver has physically inspected the vehicle, the driver shall then report by phone to the director or designated staff person that the check has been completed and no children remain on the vehicle. The Center conducted a field trip on June 20, 2013. The driver of the vehicle failed to physically inspect the interior of the vehicle to confirm that all children had exited the vehicle and failed to report completion of the check to the Center's director or designee.

6. Rule 591-1-1- .13(2) Field Trips.

This rule requires written parental permission for children to attend field trips. On June 20, 2013, the Center took 18 children on a field trip. The Center was aware that only 16 of the children had permission to attend the field trip.

7. Rule 591-1-1- .07(2) Parental Notification.

This rule requires that Centers immediately notify parents when a child needs professional medical attention. A six-year-old child received a significant cut to the head on a field trip on June 20, 2013. The Center failed to notify the parent. The parent only found out about her child's injury when she saw her child bleeding as he exited the Center's vehicle. The parent took the child for professional medical attention, and the child received four stitches.

8. Rule 591-1-1-.36(2)(f)1. Vehicle Capacity.

This rule states that no vehicle used by the center in transporting children shall exceed the manufacturer's rated seating capacity for the vehicle. On June 20, 2013, the Center transported 20 people (18 children and two adults) in a vehicle that had a rated seating capacity of 18.

9. Rule 591-1-1-.36(2)(f)1. Child Passenger Restraints.

This rule requires that during transportation all children must be secured in a child passenger restraining system or seat safety belt that is installed and used in accordance with the manufacturer's directions and state and federal laws and regulations. Because there were 20 passengers on a vehicle with only 18 seat belts, it is likely that not all the children were properly restrained when traveling on the vehicle.

SCOPE OF ORDER FOR INTENDED EMERGENCY CLOSURE

Bright from the Start issues this Order for Intended Emergency Closure because the health, safety, or welfare of children may be in imminent danger in accordance with O.C.G.A. § 20-1A-13(c)(1)(B).

The scope of this Order for Intended Emergency Closure shall include, but not be limited to, Bright from the Start ordering the immediate closure of the Center for a period of not more than 21 days. If such order is affirmed by the Office of State Administrative Hearings, or if the Center does not appeal the order, then this Order for Intended Emergency Closure shall become final. The Center shall be required to immediately notify the parent or guardian of each child enrolled in the program upon closure in accordance with O.C.G.A. § 20-1A-13(c)(2)(3).

Unless an appeal is submitted in accordance with the Notice of Right to a Preliminary Hearing Regarding the Order for Intended Emergency Closure attached

hereto, the Emergency Closure Order shall become effective June 28, 2013, and shall remain in effect for 21 calendar days.

The Center has the right to a Preliminary Hearing regarding the issuance of the Order for Intended Emergency Closure. Please see the attached Notice of Right to a Preliminary Hearing Regarding the Order for Intended Emergency Closure for information on submitting a request for Preliminary Hearing regarding the issuance of this Order.

Any questions regarding this Emergency Order should be addressed to Ira Sudman, Chief Legal Officer, at 404-463-4094.

Bright from the Start is not precluded from taking other actions permitted by other laws or regulations during the time this Emergency Order is in force.

ORDERED AND ADJUDGED THIS 26TH DAY OF JUNE, 2013.

Bobby D. Cagle

Bobby D. Cagle, MSW
Commissioner

with express permission of Justice D. Lewis
Bright from the Start: Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive SE, 754 East Tower
Atlanta, Georgia 30334

**BEFORE THE STATE OF GEORGIA
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

IN THE MATTER OF:)
)
FIRST START, INC. D/B/A)
LITTLE PEOPLES LEARNING CENTER)

**NOTICE OF RIGHT TO A PRELIMINARY HEARING REGARDING THE
ORDER FOR INTENDED EMERGENCY CLOSURE**

In accordance with O.C.G.A § 20-1A-13(f), you are hereby notified of your right to have a preliminary hearing regarding the Order for Intended Emergency Closure. A request for a preliminary hearing must be made in writing within 48 hours from the time of service, excepting weekends and holidays. The request may be made in person, by mail, by facsimile or by e-mail. The request must be made to the direct attention of:

Ira Sudman, Chief Legal Officer
Bright from the Start:
Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive SE, 754 East Tower
Atlanta, Georgia 30334
Phone: 404-463-4094
Fax: 770-342-3084
E-mail: Ira.Sudman@DECAL.GA.GOV

Upon receipt of a request for a preliminary hearing, Bright from the Start: Georgia Department of Early Care and Learning ("Bright from the Start") shall immediately forward the request to the Office of State Administrative Hearings, which shall set and give notice of the date, time and location for the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than 48 hours after such request, provided that a program may request that such hearing be held earlier and that in no event shall a hearing be held on a weekend or a holiday.

If a hearing is requested, the preliminary hearing shall consist of a review of all oral and written evidence introduced at the hearing and any arguments made. A recording of this hearing will be made.

Pending final appeal of the validity of any emergency order issued as provided in O.C.G.A § 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or the Commissioner's designee.

**BEFORE THE STATE OF GEORGIA
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

IN THE MATTER OF:)
)
FIRST START, INC. D/B/A)
LITTLE PEOPLES LEARNING CENTER)

CERTIFICATE OF SERVICE

Bright from the Start hereby certifies that a true and correct copy of the foregoing Order for Intended Emergency Closure was delivered to the following parties via the method indicated on June 26, 2013:

Carolyn Deberry
Registered Agent
Chief Executive Officer
First Start, Inc.
d/b/a Little Peoples Learning Center
2755 Flat Shoals Road
College Park, GA 30349
Via certified mail

Kuwan Tyehimba
Director
Little Peoples Learning Center
2755 Flat Shoals Road
College Park, GA 30349
Via hand delivery, certified mail and first class mail

Office of State Administrative Hearings
230 Peachtree Street, NW
Suite 850
Atlanta, Georgia 30303
Via email to vruff@osah.ga.gov



Clare Michaud
Georgia Bar No. 504048
Legal Services Officer

Bright from the Start: Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Dr. SE
754 East Tower
Atlanta, GA 30334



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BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS

STATE OF GEORGIA

Kevin Westray, Legal Assistant

FIRST START, INC., d/b/a,)	
LITTLE PEOPLES LEARNING CENTER,)	Docket No.: OSAH-DECAL-CCLC-1346077-60-Brown
Petitioner,)	
v.)	
)	
BRIGHT FROM THE START:)	
GEORGIA DEPARTMENT OF EARLY CARE AND)	
LEARNING,)	
Respondent.)	

FINAL DECISION

ORDER AFFIRMING EMERGENCY CLOSURE

I. INTRODUCTION

This matter is an appeal by the Petitioner, First Start, Inc., d/b/a, Little Peoples Learning Center, ("Center"), of the Order for Intended Emergency Closure of its child care facility issued by the Commissioner for the Georgia Department of Early Care and Learning ("Department") on June 26, 2013. A preliminary hearing pursuant to O.C.G.A. § 20-1A-13 was held on July 1, 2013, before the undersigned Administrative Law Judge of the Office of State Administrative Hearings.

The Petitioner's Director/Owner is Mr. Kuwan Tyehimba, who was present and represented himself. The Department was represented by Ms. Clare Michaud. After careful consideration of the evidence and the arguments of the parties, and for the reasons set forth below, the Order for intended Emergency Closure is hereby AFFIRMED.

II. FINDINGS OF FACT

1.

Petitioner Little Peoples Learning Center is a licensed child care learning center located at 2755 Flat Shoals Road, College Park, Georgia 30349, in accordance with O.C.G.A. § 20-1A-13(c)(1)(B). The Center, which is owned and operated by Kuwan Tyehimba, offers day care for children as young as infants. An after school program for school age children is also offered. (Testimony of Mr. Tyehimba; Ex. R-1)

2.

A Complaint Investigation & Monitoring Visit was made to the Center on April 19, 2013, by Ms. Earlene Huston, Child Care Consultant, in which it was determined, among other things, that the playground was unsafe for children, as a broken drainage pipe was on the ground; a large, active ant hill was observed on the toddler playground; and the playground was littered with pine cones, gum balls and broken toys, all in violation of Rule 591-1-1-.26(8).¹ The netting on the left fence of the playground was not secured to the fence, in violation of Rule 591-1-1-.26(4). The wood had rotted on a yellow bench that was in the front left of the playground, and in the center of it was a hole with splintered wood, in violation of Rule 591-1-1-.26(6). (Testimony of Ms. Earlene Huston; Ex. R-1)

3.

On the inside of the Center, the Child Care Consultant observed that one of the toilets in the girls' bathroom was inoperable, but the children had used the toilet, which resulted in a bad smell in the bathroom, in violation of Rule 591-1-1-.25(3). (Testimony of Ms. Earlene Huston; Ex. R-1)

4.

The Rule violation that drew the greatest concern, however, was in the area of Transportation of Children. While the Center is required to maintain a passenger transportation checklist in a format approved by the Department if it transports children (Rule 591-1-1-.36(6)(c)), the Center's transportation checklist for the week of April 15 through April 19, 2013 revealed that the Center's staff did not use a transportation checklist to account for each child during transportation conducted on the morning of April 19, 2013. (Testimony of Ms. Earlene Huston; Ex. R-1 and Ex. R-2)

5.

In addition, there was no documentation that the Center's staff was checking children on and off the facility's vehicle. It also appeared that the passenger transportation checklist was completed before the transportation took place, in violation of Rule 591-1-1-.36(6)(c)(3). Indeed, when the Department's investigator reviewed the transportation checklist for April 19, 2013, at 7:00 AM in the morning, the "blocks" were already completed for the afternoon route as if it had occurred already, and the Director's name was signed already for a route not scheduled to take place until later in the afternoon. (Testimony of Ms. Earlene Huston; Exhibit R-1 and Ex. R-2)

6.

Lastly, the responsible person on the vehicle for the April 19, 2013 morning transportation route did not sign the transportation checklist, and no staff conducted the required first check of the vehicle after the driver returned from the morning drop-off route, in violation of Rule 591-1-1-.36(6)(d). (Testimony of Ms. Earlene Huston; Ex. R-1 and Ex. R-2)

¹ While several other Rule violations were observed and found, only the ones pertinent to the Department's recommended request for emergency closure are discussed herein.

7.

Again on May 14, 2013, Ms. Huston returned to the Center to complete the monitoring visit/complaint investigation, and determined that the playground remained unsafe, as there were ant hills, a bench of rotten wood, non-secure fencing, a drainage pipe laying in the yard, an inoperable toilet, and, once again problems with the transportation procedures. On the morning of May 14, 2013, the responsible person on the Center vehicle failed to use a transportation checklist to document that the vehicle had been thoroughly checked to indicate all children had exited the vehicle upon return to the Center after the morning transportation route. Due to the Rule violations, the Center presented a Plan of Improvement to Ms. Huston in order to address these major issues concerning transportation and child care. (Testimony of Ms. Earlene Huston; Ex. R-3)

8.

On May 23, 2013, Ms. Huston was at the Center for a follow-up visit concerning the transportation issues, the playground's condition, and to determine whether or not the Plan of Improvement had been put into place. She observed that the netting on the fence was not secured to the fence, making it hazardous. The outdoor playground was not free of hazards, either, as the yellow bench was still present, with its rotten wood seat and splinters. A large active ant hill was apparent on the toddler playground, and the pine cones and sweet gumballs were still on the playground for the older children, and had not been raked. The broken drainage pipe that had been observed previously was discarded in the left side of the playground. (Testimony of Ms. Huston; Ex. R-5)

9.

Also on May 23, 2013, the same transportation issues that existed previously were observed to still exist, in that the driver or other designated person on the Center vehicle who must document by marking a checklist each time a child gets on and off the vehicle, had not done so. Neither the first or second checks had been performed, either, because those vehicle checks were not documented. It also must be documented when the vehicle departs from the Center; arrives at the school, and when the vehicle returns to the Center. If a field trip is part of the schedule, the driver of the Center vehicle, or another designated person, must document when the vehicle leaves the Center; arrives at the field trip destination, leaves the field trip destination; and when the vehicle returns to the Center. Although a field trip was not on the schedule for May 23, the passenger checklist for the Center that day did not contain such designations as required by the Department's Rules. The Center had not implemented the Plan of Improvement and was not following any of its provisions. (Testimony of Ms. Huston; Ex. R-5)

10.

The transportation checklist did not contain the initials of the driver or other designated person to verify arrival and departure times. There was no indication of a first or second check conducted by the director or the director's designee to verify that the Center vehicle had been checked to indicate all children had exited the vehicle upon return to the Center. A vehicle must be thoroughly checked by a staff person who was present on the vehicle during the trip and then a second check must be conducted by the

director or the director's designee who was not on the trip. There was no indication that any of these safeguards had been met by Petitioner. Before she left, Ms. Huston brought all these matters to the attention of the Director, Mr. Tyehimba. (Testimony of Ms. Huston; Ex. R-5)

11.

Based on the Center's prior history of Rule violations, and the present non-compliance with Department Rules, the decision was made to revoke Petitioner's permit to operate the Center. However, before the revocation notice could be served, on June 21, 2013, the Complaint Unit of the Department received another complaint about the Center, concerning a 6-year old child who was injured on a field trip for which his parent(s) had not given permission, and who was not given emergency medical treatment when the injury occurred. (Testimony of Ms. Shenetta McNair, Complaint Unit Lead Consultant)

12.

After the complaint was received, Ms. Shenetta McNair, the Lead Consultant, planned a visit to the Center. She arrived at the Center on June 24 at 10:20 AM to conduct her investigation. She entered the facility and introduced herself to "Ms. Harvey," but the Director, Mr. Tyehimba, was not present. According to Ms. McNair, Ms. Harvey telephoned Mr. Tyehimba to notify him of Ms. McNair's arrival. (Testimony of Ms. Shenetta McNair)

13.

When Ms. McNair indicated the reason for her visit/investigation, she asked to review the permission slips for the children who went on the field trip on June 20, 2013 to the D.H. Stanton Waterpark. The permission slips were all entitled FIELD TRIP PERMISSION FORM, and indicated the date, the location of the field trip, the address, and the time the Center vehicle would leave the Center (9:30 AM) and the time it would return that day (5:00 PM). There was a line for the signature of the parent or guardian and the date. (Testimony of Ms. Shenetta McNair; Ex. R-7)

14.

In the course of her investigation, Ms. McNair spoke to the teacher, Ms. Carey Henderson, and Ms. Harvey. She interviewed several children, as well. Eighteen (18) children went on the field trip, but only 15 had signed permission slips. However, according to Ms. McNair's investigation, Ms. Harvey was the staff person who gave "indirect" permission for those without permission slips to go. (Testimony of Ms. Shenetta McNair; Ex. R-7)

15.

Although eighteen (18) children, the driver, and two adults were on the Center vehicle, there are only eighteen (18) child restraints on the Center's vehicle, which means that two children, or adults, were not wearing seat belts. Ms. McNair interviewed several children about the accident concerning a 6 year old child, Stephen, who fell and cut his head at the waterpark. Although the children indicated that the accident happened about mid-day, as they were "about to eat," and although they told the teacher

about the accident, they did not leave the park and return to the Center, but stayed for the day, and returned sometime between 5:00 and 5:30 pm. (Testimony of Ms. Shenetta McNair; Ex. R-6)

16.

The Department has a Field Trip Form specifically for the occasional field trip sponsored by a day care facility. However, on June 20 during the field trip, the Center used a Roll Call Form it had used previously to check kids on and off the vehicle. The first page of the two-page form was a routine transportation checklist, and was not completed properly by Ms. Henderson, the driver, and "teacher" for purposes of the field trip. For instance, it appeared from the document (Roll Call list), that there was a failure to conduct the required first check of the vehicle. (Testimony of Ms. Shenetta McNair; Ex. R-8)

17.

Later, when the vehicle returned to the Center after the field trip, the driver/teacher again failed to indicate on the transportation checklist that each child had exited the vehicle and failed to conduct the required first check of the vehicle. From her review of the transportation checklist provided to her by the Center for June 20, Ms. McNair observed that neither the first nor the second check of the Center vehicle had occurred that day before or after the field trip. (Testimony of Ms. Shenetta McNair; Ex. R-8)

18.

From her investigation, Ms. McNair concluded that there was a lack of supervision when the incident occurred at the waterpark on the field trip on June 20. The Center's designated staff member, a teacher, did not react appropriately, and did not have a clear view of the play area on which the children were playing. The teacher did not return the children to the Center immediately after the accident occurred, nor did she telephone anyone at the Center about the accident, nor did she telephone the parent(s) to let them know an accident had occurred. There was no proof that medical treatment had been provided, other than some ice placed on the deep incision on the child's head, after the teacher learned of the incident from the children. (Testimony of Ms. Shenetta McNair)

19.

Based on her investigation, the Department determined that the health, safety and welfare of the children at the Center are in imminent danger, due to Petitioner's failure to abide by the Department's transportation safety rules, as well as the Department's rules concerning the health and safety of children in day care, and that an Emergency Closure Order is necessary to close the Center, while the revocation action is ongoing. Consequently, the ORDER FOR INTENDED EMERGENCY CLOSURE was issued by the Department on June 26, 2013.

20.

Ms. Chantelle McFarland is the mother of the 6 year old child, Stephen, who was injured on the field trip sponsored by the Center on June 20, 2013. Ms. McFarland testified that she did not give her son permission to go on the field trip, and that she did not know that her son had been injured until the

Center vehicle returned from the field trip, and her son had blood on his clothes, and an obvious wound on his head, that was also bloody. She took her son to the emergency room immediately, where he received four sutures to the back of his head. Ms. McFarland also indicated that this was the third time her son had been taken on a field trip by the Center without her permission. (Testimony of Ms. Chantelle McFarland)

21.

Petitioner's Director/Owner/Operator, Mr. Kuwan Tyehimba, testified that he has been in business since July, 1999, and that his day care facility enjoys an "excellent reputation in the community," as he teaches and educates the children at the Center. Petitioner was originally licensed for 244 kids, but that changed recently, and the current license is for 132 children. On any given day, Mr. Tyehimba indicated that about 55 children are in attendance at his day care facility. (Testimony of Mr. Kuwan Tyehimba)

22.

According to Mr. Tyehimba, he has repaired the fence, and that chicken wire is secured to the "main" fence. The drainage pipe is clogged with dirt and debris, caused for the most part by heavy rains. He has purchased "Ortho" for the ant hills problem, but as soon as he gets rid of one ant hill, another arises. He has been "watching it." There are 14 toilets in his building, and he may have a plumbing issue somewhere at any time. BUT, with respect to the toilet for which he was cited by Ms. Huston, the handle was broken, and he repaired it. (Testimony of Mr. Kuwan Tyehimba)

23.

Mr. Tyehimba testified that there is "no excuse" for taking a child on a field trip without a signed permission slip from the parent or guardian, and that the child "should never have left the building." He believes that Ms. McFarland is friendly with his staff personnel, so that is the reason, possibly, that the child was allowed to go on the field trip without permission. While he was very sorry about the accident when the 6 year old child fell and cut his head, Mr. Tyehimba indicated that, "kids do have accidents," and that in his fourteen (14) years in business, there was only one other child who had been injured on Center property. (Testimony of Mr. Kuwan Tyehimba)

24.

He admitted that the Center does have transportation issues, and he thought those issues had been resolved, but the woman who was in charge of transportation at the Center is no longer working there, and he had to place someone else in charge of it. Sometimes a teacher uses her own car to transport some of the children, but on those days, no transportation checklist is used. Mr. Tyehimba admitted that although the Center has the appropriate "paperwork," they have had problems completing the paperwork properly. Mr. Tyehimba denied that there was ever any fraud in his paperwork. (Testimony of Mr. Kuwan Tyehimba)

III. CONCLUSIONS OF LAW

1.

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

2.

In July 2011, the General Assembly gave the Department's Commissioner the authority to close an early care and education program on an emergency basis for up to 21 days. Under O.C.G.A. § 20-1A-13(c)(1), the Commissioner may order an emergency closure under the following circumstances:

- (A) Upon the death of a minor at such program, unless such death was medically anticipated or no serious rule violations related to the death by the program were determined by the department; or
- (B) Where a child's safety or welfare is in imminent danger.

3.

First Start, Inc., d/b/a, Little Peoples Learning Center, has failed to comply with the Department's Rules, as follows:

- (A) The Center failed to ensure on multiple occasions that the driver or other designated person documented on a transportation checklist each child's entrance to, and exit from, the Center's vehicle to ensure each child was accounted for, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(6)(c)(3);
- (B) The Center failed to ensure on multiple occasions that thorough vehicle checks by the driver and other designated staff members occurred after children were unloaded from the vehicle by conducting a physical walk-through to inspect all seat surfaces and under all seats, to confirm all children have exited, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(6)(d)(1);
- (C) The Center failed to ensure that the driver report by phone to the director or designated staff person that the check had been completed and that no children remained on the vehicle, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(d)(2);
- (D) The Center exceeded the vehicle's seating capacity while transporting children, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(2)(f)(1);
- (E) The Center failed to properly restrain children during transport, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(2)(f)(1).

- (F) The Center failed on June 20, 2013, to obtain written parental permission for a child to attend a field trip, in that the Center was aware that only 16 of the 18 children had permission to attend the field trip, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.13(2);
- (G) The Center failed to adequately supervise children, as children must be supervised at all times, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.32(6);
- (H) The Center failed to notify parents when a child needed medical attention, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.07(2); and
- (I) The Center failed to seek prompt emergency medical treatment for an injured child, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.07(4);

4.

The Department proved, by a preponderance of the evidence, that the health, safety and welfare of children at Little Peoples Learning Center are in imminent danger within the meaning of O.C.G.A. § 20-1A-13(c)(1)(B). The ALJ's determination is based on the following considerations:

- (A) The Department's prior decision to revoke the Center's license for Rule violations;
- (B) The Center's lack of child supervision resulting in serious injury to a child;
- (C) The Center's failure to obtain adequate medical treatment and inform the appropriate individuals in response to a child's injury;
- (D) The Center's continuous failure to properly perform adequate vehicle safety checks even after the Department conducted three inspections of the Center's transportation procedures; and
- (E) The serious and numerous Rule violations stemming from the Center's failure to abide by the Department's transportation and supervision rules.

Accordingly, the Commissioner is authorized to order the emergency closure of First Start, Inc. d/b/a, Little Peoples Learning Center for up to 21 days, pursuant to O.C.G.A. § 20-1A-13(c)(1).

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Order for Intended Emergency Closure is hereby **AFFIRMED**.

SO ORDERED, this 3rd day of July, 2013.



Barbara A. Brown
Administrative Law Judge