

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-06/13-444
)
Appeal of)

INTRODUCTION

Petitioner appeals a finding of an early childhood program license violation by the Child Development Division of the Department for Children and Families ("Department"). The following facts are adduced from a hearing held September 26, 2013.

FINDINGS OF FACT

1. Petitioner is a childcare program serving children at a range of ages, including preschool children.
2. A licensed field specialist in the Department's Child Development Division made a site visit to petitioner's program in April of 2013.
3. During the site visit, the field specialist spoke to the childcare director and a classroom teacher about the program. The field specialist was informed that children 35 months old were regularly placed in a preschool classroom with up to nine other children three years of age and older, with only one staff member present.

4. The field specialist subsequently reviewed attendance records at the daycare in months immediately prior to the site visit and confirmed what she had been told by staff.

5. Based on this information, petitioner was cited by the Department for a licensing violation of the requirement of a 1:5 staff-to-child ratio for children aged 24-35 months old. The requirement for children 3 years old to kindergarten is a 1:10 staff-to-child ratio.

6. Petitioner did not present any evidence disputing what had been admitted by staff during the site visit and subsequently confirmed by the attendance records.

7. Rather, petitioner asserts that its practice of placing children 35 months old with older children was done to benefit their transition to the new classroom.

ORDER

The Department's finding of a licensing violation is affirmed.

REASONS

The Department has promulgated regulations governing childcare providers in Vermont, including early childhood programs. There is no dispute that petitioner is a licensed provider and subject to the regulations. Board precedent gives deference to the Department's interpretation of its early childhood program licensing regulations. See Fair Hearing No. B-02/11-64.

The Department's regulations require a 1:5 staff-to-child ratio for children aged 24 to 35 months old. See Early Childhood Program Licensing Regulations, § I.E.4. The requirement for children three years old to kindergarten-age is a 1:10 staff-to-child ratio. See, *Id.* The regulations do not prohibit mixed-aged groups, but provide that the age of the youngest child in the group determines the applicable staff ratio. See Early Childhood Program Licensing Regulations, § I.E.5.

There is no dispute petitioner regularly included children aged 35 months old with a group of older children, at a staff-to-child ratio in violation of what is allowed by the regulations, which clearly outline staffing requirements based on child age. Thus, the Department's finding of a licensing violation is consistent with the applicable

regulations must be affirmed by the Board. 3 V.S.A. §
3091(d), Fair Hearing Rule No. 1000.4D.

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