



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF INSPECTOR GENERAL

Eric Friedlander
SECRETARY

Melissa A. Moore, Director
Division of Regulated Child Care
Eastern Branch
455 Park Place, Suite 120A
Lexington, KY 40511

Adam Mather
INSPECTOR GENERAL

Phone: (859) 246-2301 Fax: (859) 246-2307
<https://chfs.ky.gov/agencies/os/oig>

Inspection Report

Provider Name: New Creation Child Care LLC	Provider Information	CLR No: L383153
Provider Address: 1037 Industry Road, Lexington, KY, 40505	Provider Type: LICENSED TYPE I	Capacity: 146
Owner(s): New Creation Child Care Llc		Director(s): Murphy, Erika Lashea

Inspection Type: Investigation	Inspection Information	Inspection No: 245761
Date Initiated: 06/29/2018 12:40 PM	Date Concluded: 07/12/2018 9:45 AM	
	No. of Children Present: 107	

Inspection Report	
Background Checks	Not In Compliance
5 - Background check/left alone/dismissed/relocated	Not In Compliance
<p>922 KAR 2:280. Section 3. Implementation and Enforcement.</p> <p>(1) A person who is a child care staff member prior to January 1, 2018, shall submit to and complete background checks in accordance with this administrative regulation no later than September 30, 2018.</p> <p>(2) A child care staff member hired on or after January 1, 2018, shall:</p> <p>(a) Have completed the background checks required in accordance with this administrative regulation and found to have no disqualifying offense prior to becoming a child care staff member; or</p> <p>(b) 1. Have submitted to the background checks required in accordance with this administrative regulation;</p> <p>2. Not be left unsupervised with a child in care pending the completion of the background checks in accordance with this administrative regulation; and</p> <p>3. Be dismissed or relocated from the residence if the person is found to have a disqualifying background check result.</p>	
Findings:	
<p>General: Based on Review of Documentation, it was found that the file for an employee hired on 5-29-18 contained evidence of the required forms for the NBCP having been filled out and submitted on 6-12-18; however, the research results for the KY Child Abuse Network Registry came back as "Not Cleared." This employee was observed to be working alone with eight (8) two and three-year-old children during the investigation on 6-29-18. During interview, the employee stated that she has been working alone with children in the Two Year Old classroom every day since she was hired. During interview with the director, she stated that the employee did not start working alone with children until 6-12-18 when the background check process was initiated.</p>	

Inspection Report

Supervision

Not In Compliance

90 - Children Supervised

Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.

(3)(a) Each center shall maintain a child-care program that assures each child will be:

1. Provided with adequate supervision at all times by a qualified staff person who ensures the child is:

- a. Within scope of vision and range of voice; or**
- b. For a school-age child, within scope of vision or range of voice;**

Findings:

General: Based on Observation, and interview, the following were found: 1) during a tour of the facility on 6-29-18 the Two Year Old classroom was completely dark. The classroom is an inside room with no windows and the door to the classroom was closed. When a light in an adjoining classroom was turned on, it was found that a staff person and eight (8) two and three-year-old children were present in the room. Most of the children were napping. The staff person was unable to see any of the children in her care due to the lack of light; 2) during interview on 6-29-18, the teacher in the Two Year Old classroom explained that when she needs to use the bathroom, she takes the children into the bathroom with her. The bathroom has one (1) long stall along one side of the room. The bottom of the stall is approximately twelve (12) inches from the floor. The teacher stated that while she was in the stall, the children remained in the main bathroom area with the door closed. During this time, the children could not be seen by the teacher; 3) on 7-12-18 a six-year-old child was observed to run out the front door of the facility and go halfway up a set of stairs that leads to the upper level of the shopping center that houses the facility. A male staff person was observed to follow the child as far as the front door of the facility and instruct her to return to the building. When the child refused, the staff person went back inside the facility, thus leaving the child unsupervised. Approximately two (2) minutes later, a female staff person came outside to talk to the child and bring her back inside the facility.

Staffing Requirements

In Compliance

Director Requirements

Not In Compliance

350 - Health, Safety, Comfort

Not In Compliance

922 KAR 2:090. Section 10. Director Requirements and Responsibilities.

(1) A director shall:

(l) Assure the health, safety, and comfort of each child;

Findings:

General: Based on Observation, and interview, the following was found: 1) several two-year-old children were observed to be sleeping while holding sippy cups. The teacher stated that the children were allowed to drink from their sippy cups as they were falling asleep; 2) the children in the Three Year Old classroom were observed to be sitting on the classroom floor while they were eating lunch; 3) the teacher in the Two Year Old classroom admitted that she shares her personal food and drink with the children. She stated that she has allowed children to drink from drinks using her straw. She also stated that she has poured some of her drink into a child's cup; 4) the teacher in the Two Year Old classroom stated that she usually changes the children's diapers on a mat on the floor. She identified the mat as being one that a child was sleeping on during the investigation; 5) the teacher in the Two Year Old classroom explained that when she needs to use the bathroom, she takes the children into the bathroom with her. The bathroom has one (1) long stall along one side of the room. The bottom of the stall is approximately twelve (12) inches from the floor. The teacher stated that while she is in the stall, the children remained in the main bathroom area with the door closed. This area was found to contain a sink and a urinal, which was accessible to the children; 6) on 6-18-18, a two-year-old child was able to access a plastic bag and place it halfway over his head.

360 - Caregiver Alone

Not In Compliance

922 KAR 2:090. Section 10. Director Requirements and Responsibilities.

(1) A director shall:

(n) Assure that a person acting as a caregiver of a child in care shall not be left alone with a child, if the licensee has not received the results of the background checks as described in 922 KAR 2:280;

Findings:

General: Based on Observation, it was found that an employee hired on 5-29-18 was working alone with eight (8) two and three-year-old children on 6-29-18. She was the only employee in the classroom for the duration of the investigation. During interview, the employee stated that she has been working alone with children in the Two Year Old classroom every day since she was hired. The director stated that the employee did not start working alone with children until 6-12-18. A review of files found that this employee did not have evidence of a completed background check on file.

420 - Program of Activities Followed

Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.

(4) The child-care center shall provide a daily planned program:

- (a) Posted in writing in a conspicuous location with each age group and followed;**
- (b) Of activities that are individualized and developmentally appropriate for each child served;**
- (c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and**
- (d) Unless the child-care center is a before- or after-school program that operates part day or less, that offers a variety of creative activities including the following:**

- 1. Art or music;**
- 2. Math or numbers;**
- 3. Dramatic play;**
- 4. Stories and books;**
- 5. Science or nature;**
- 6. Block building or stacking;**
- 7. Tactile or sensory activity;**
- 8. Multi-cultural exposure;**
- 9. Indoor or outdoor play in which a child makes use of both small and large muscles;**
- 10. A balance of active and quiet play, including group and individual activity;**
- 11. An opportunity for a child to:**
 - a. Have some free choice of activities;**
 - b. If desired, play apart from the group at times;**

Findings:

General: Based on Observation, it was found that the Two Year Old classroom did not have any blocks or stacking materials available for the children. The teacher stated that she was unaware of the need for these materials to be in the classroom and that she made due with whatever was given to her.

445 - Waiting Period

Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.

(8) A child shall not be required to stand or sit for a prolonged period of time:

- (a) During an activity;**
- (b) While waiting for an activity to start; or**
- (c) As discipline.**

Findings:

General: Based on Interview, it was found that the teacher in the Two Year Old classroom used a feeding booster seat to place the children in time out. The children were reportedly strapped into the seat and made to sit there for five (5) to thirty (30) minutes at a time. Restraining the children as a means of discipline and placing them in time out for more than two (2) minutes is not developmentally appropriate.

455 - Discipline

Not In Compliance

922 KAR 2:120. Section 2. Child Care Services.

(10) A child shall not be subjected to:

- (a) Corporal physical discipline pursuant to KRS 199.896(18);**
- (b) Loud, profane, threatening, frightening, humiliating, or abusive language; or**
- (c) Discipline that is associated with:**
 - 1. Rest;**
 - 2. Toileting; or**
 - 3. Food.**

Findings:

General: Based on Interview, it was found that a feeding booster seat was being used to separate a two-year-old child from the other children during mealtimes. The teacher stated that when the child did not behave properly at mealtime he was placed in the feeding booster seat so he could not bother the other children. The children in the classroom eat meals at two (2) child-size tables with small free-standing chairs. The child required to sit in the feeding booster seat was reportedly placed on the floor across the room from the group. The teacher stated that the seat was used for this purpose as recent as lunch time on 6-29-18.

505 - Rest Period - Alternate Activity

Not In Compliance

922 KAR 2:120. Section 6. Sleeping and Napping Requirements.

(5) A child who does not sleep shall be permitted to play quietly and shall be visually supervised.

Findings:

General: Based on Observation, it was found that at 12:45 p.m. on 6-29-18 most of the children in the Two Year Old classroom were napping. A two-year-old child was observed to be rolling around on his mat, putting his feet on the wall, playing with the legs of a table and occasionally standing up. The child was repeatedly told by the teacher to lay down and be still for approximately forty (40) minutes. After that time, other children began to wake up and stir around. During interview, the teacher stated that the child usually naps well, but had come in late that morning and most likely was not tired. At no time did the teacher offer the child the opportunity to play quietly by himself or try to engage the child in a quiet activity.

Inspection Report

510 - Appropriate Use of Food

Not In Compliance

922 KAR 2:120. Section 9. Food and Meal Requirements.

(2) Food shall not be:

- (a) Used for reward;**
- (b) Used for discipline;**
- (c) Withheld until all other foods are consumed; or**
- (d) Served while viewing electronic devices.**

Findings:

General: Based on Observation, it was found that on 6-29-18, the children in the Three Year Old classroom, the Four/Five Year Old classroom and the Five/Six Year Old classroom were eating lunch while watching television. The teachers in the classrooms stated that they did not know that children could not eat while watching television.

Premises

Not In Compliance

525 - Items Accessible Only During Activity

Not In Compliance

922 KAR 2:120. Section 3. General Requirements.

(8) The following shall be inaccessible to a child in care unless under direct supervision and part of planned program of instruction:

- (a) Knives and sharp objects;**
- (b) Litter and rubbish;**
- (c) Bar soap; and**
- (d) Plastic bags not used for personal belongings.**

Findings:

Based on interview, it was found that a two-year-old child was able to access a plastic bag and place it halfway over his head. The plastic bag was reportedly being stored on the changing table where it was knocked off by another child.

565 - 35 Square Feet per Child

Not In Compliance

922 KAR 2:120. Section 4. Premises Requirements.

(6) Exclusive of the kitchen, bathroom, hallway, and storage area, there shall be a minimum of thirty-five (35) square feet of space per child.

Findings:

General: Based on Observation, it was found that on 6-29-18, a staff person was caring for eight (8) children in the Two Year Old classroom. The staff person and the director both stated that there are normally six (6) children in the classroom. Based on square footage, this classroom has a maximum capacity of five (5) children.

Hygienic Practices

Not In Compliance

655 - Child Personal Care/Handwashing

Not In Compliance

922 KAR 2:120. Section 3. General Requirements.

(4) A child shall:

- (a) Be helped with personal care and cleanliness based upon their developmental skills; and**
- (b) Wash his or her hands with liquid soap and warm running water:**
 - 1. a. Upon arrival at the center; or**
 - b. Within thirty (30) minutes of arrival for school-age children;**
 - 2. Before and after eating or handling food;**
 - 3. After toileting or diaper change;**
 - 4. After handling animals;**
 - 5. After touching an item or an area of the body soiled with body fluids or wastes; and**
 - 6. After outdoor or indoor play time; and**
- (c) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (b) of this subsection. The child shall wash the child's hands as soon as practicable once liquid soap and warm running water are available.**

Findings:

General: Based on Interview, it was found that the staff person in the Two Year Old classroom does not wash the children's hands before breakfast. She stated that their hands have not had time to get dirty so she did not feel the need to go through the hassle of washing them. She also stated that she only washes their hands after meals if they are sticky or messy.

660 - Staff Hygiene/Handwashing

Not In Compliance

922 KAR 2:120. Section 3. General Requirements.

(5) Staff shall:

- (a) Maintain personal cleanliness;**
- (b) Conform to hygienic practices while on duty;**
- (c) Wash their hands with liquid soap and running water:**
 - 1. Upon arrival at the center;**
 - 2. After toileting or assisting a child in toileting;**
 - 3. Before and after diapering each child;**
 - 4. After wiping or blowing a child's or own nose;**
 - 5. After handling animals;**
 - 6. After caring for a sick child;**
 - 7. Before and after feeding a child or eating;**
 - 8. Before dispensing medication;**
 - 9. After smoking or vaping; and**
 - 10. If possible, before administering first aid; and**

(d) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (c) of this subsection. The staff shall wash the staff's hands as soon as practicable once liquid soap and warm running water are available.

Findings:

General: Based on Interview, it was found that the staff person in the Two Year Old classroom does not wash her hands prior to diapering a child as required.

Equipment

Not In Compliance

795 - Individual Bed/Mat/Cot and Bedding

Not In Compliance

922 KAR 2:120. Section 6. Sleeping and Napping Requirements.

(3) Rest time shall include adequate space specified by the child's age as follows:

(b) For a toddler or preschool-age child:

- 1. An individual bed, a two (2) inch thick waterproof mat, or cot in good repair; and**
- 2. Bedding that is in good repair and is changed:**
 - a. Weekly; or**
 - b. Immediately if it is soiled or wet.**

Findings:

General: Based on Observation, it was found that the one-year-old children were sleeping on nap mats, but were not provided any bedding.

805 - Cots/Mats Disinfected

Not In Compliance

922 KAR 2:120. Section 6. Sleeping and Napping Requirements.

(8)(a) Cots or mats not labeled for individual use by a child shall be disinfected after each use.

(b) Cots or mats labeled for individual use by a child shall be disinfected:

- 1. At least weekly; or**
- 2. Immediately if it is soiled or wet.**

Findings:

General: Based on Observation, it was found that the nap mats used by the children in the Two Year Old classroom were not labeled for individual use. The mats were not disinfected when nap time was over. They were stacked up and placed in a pile by the classroom door. It should also be noted that one (1) of the mats is also used as a changing mat during diapering time.

815 - Toys/Furniture

Not In Compliance

922 KAR 2:120. Section 11. Toys and Furnishings.

(1) All toys and furniture contacted by a child shall be:

- (a) Kept clean and in good repair; and**
- (b) Free of peeling, flaking, or chalking paint.**

Findings:

Based on observation, it was found that the booster seat being used with the children was covered in an oily substance, food crumbs and debris.

Food Service

Not In Compliance

1000 - Bottle Feeding

Not In Compliance

922 KAR 2:120. Section 3. General Requirements.

(11) While bottle feeding a child, the:

- (a) Child shall be held; and**
- (b) Bottle or beverage container shall not be:**
 - 1. Propped;**
 - 2. Left in the mouth of a sleeping child; or**
 - 3. Heated in a microwave.**

Findings:

General: Based on Observation, it was found that a seven-month-old child was sitting in a bouncy seat while drinking a bottle on 6-29-18.

Inspection Report

Posted Documentation

Not In Compliance

1200 - Posting Requirements

Not In Compliance

922 KAR 2:090. Section 8. General.

(6) In addition to the posting requirement of KRS 199.898(3), a child-care center shall post the following in a conspicuous place and make available for public inspection:

- (a) The provider's preliminary or regular license;**
- (b) Each statement of deficiency and civil penalty notice issued by the cabinet during the current licensure year;**
- (c) Each plan of correction submitted by the child-care center to the cabinet during the current licensure year;**
- (d) Information on the Kentucky Consumer Product Safety Program and the program's website as specified in KRS 199.897;**
- (e) A description of services provided by the child-care center, including:**
 - 1. Current rates for child care; and**
 - 2. Each service charged separately and in addition to the basic rate for child care;**
- (f) Minimum staff-to-child ratios and group size established in 922 KAR 2:120; and**
- (g) Daily planned program.**

Findings:

General: Based on Observation, it was found that a planned program of daily activities was not posted in the Two Year Old classroom. The teacher in the classroom stated that she has not had a planned program of daily activities posted since she started on 5-29-18.

Signature of Provider/Representative

Title

Date