

COMPLIANCE / COMPLAINT REVIEW

Nebraska Department of Health and Human Services
 Division of Public Health
 Licensure Unit
 1313 Farnam, 3rd floor
 Omaha, NE 68102

Department of Health & Human Services



TO BE COMPLETED BY CHILD CARE INSPECTION SPECIALIST

Complaint #: 33616	Licensee ROSEWOOD ACADEMY SW INC	Time of Visit 9am
Facility Name and Physical Address ROSEWOOD ACADEMY SW INC 19010 EDNA ST Omaha NE 68136	Telephone 4029333666	Date of Visit 3-2-20
	Child Care Inspection Specialist/Telephone Number Tammy Reeves 402 595-3341	Purpose of Visit Complaint Inspection

REGULATIONS ALLEGED TO HAVE BEEN VIOLATED

391 NAC 3-006.32B Alcohol and Controlled Substances #3:	Alcohol and Controlled Substances 3. The unlawful use or possession of controlled substances, as defined by Neb. Rev. Stat. §§ 28-401 to 28-403 and 28-439, is prohibited. Controlled substances that have not been legally prescribed must not be on the premises.
391 NAC 3-006.20A Prohibited Forms of Discipline #9:	Prohibited Forms of Discipline The following actions are prohibited as a form of discipline: 9. Handling roughly;
391 NAC 3-006.02 Director Requirements #10:	Director Requirements The director is responsible for managing the day-to-day operations of the child care center. The director must report to the licensee all matters related to the maintenance, operation, and management of the child care center and be directly responsible to the licensee or to a person delegated governing authority by the licensee. The director must: 10. Immediately file a report with the Child Abuse-Neglect Hotline (1-800-652-1999) and/or appropriate local law enforcement agency when s/he has reason to believe child abuse, neglect, or sexual abuse may be occurring in the child care center, in the child's home, or elsewhere, or ensure that a report is filed;

INVESTIGATOR COMMENTS / OBSERVATIONS

Substantiated: Allegations found to be true
Unable to Substantiate: Unable to determine allegations to be true or false
No Non-Compliance: Allegations found to be false

NARRATIVE: Narrative must include observation, discussion, action needed and date corrections are to be made by.	Findings
<p>Allegations: On 2-20-20, Children's Services Licensing received a complaint report with the following allegations:</p> <ul style="list-style-type: none"> -Staff 1 is the lead teacher in one of the toddler rooms and on multiple occasions, comes to work under the influence of Xanax. Staff 1 was falling asleep in front of the children and was left alone with children for more than an hour. Staff 1 was seen on camera laying on the floor as the kids climbed on staff 1, getting into stuff and playing on the I-pad. -The director and office manager were both informed. -Staff 1 can be seen on camera pushing, pulling, yelling and dragging children -Staff 1 was seen laying on child 1 and child 1 was yelling 'owie" and trying to push staff 1 off. Staff 1 pulled child 1 by the legs, made them lay on floor and pushing on their back to hold child 1 on the cot. -Staff 1 had child 1 and child 2 on their backs on the cots and held blankets over their faces while they screamed and kicked. The director and staff 2 were informed of the incident. The 	

director and staff 2 watched the incident on camera and only told staff 1, 'don't cover the kid's heads during nap'.

-Staff 1 became upset when kids took too long in the bathroom and would drag them out of the room by their arms. Staff 1 drug child 3 by an arm and child 3 grabbed onto staff 3, so staff 1 pulled child 3 hard to get the child off of staff 3.

-Staff 1 pulled child 3 away from an activity back into the room by the arm. Child 3 sat screaming 'owie' and crying. When staff 4 asked what was wrong, child 3 said that staff 1 hurt their arm.

-The director and staff 2 was told that staff 1 yells and grabs kids, specifically child 1, child 2, child 4 and child 5. The director and staff 2 responded 'those are the ones that push her buttons the most'.

-Staff 1 was to be fired in the summer of 2019 for being too aggressive, but instead management moved staff 1 to another room that required two teachers.

-Management is aware of all of the above incidents and staff 1's past at other centers where staff 1 was relocated because of drug use and fraud. They choose to keep staff 1 as a lead teacher.

The owners have no idea about any of it.

Observations and Findings:

-On 2-24-20, Child Care Inspection Specialist, Tammy Reeves referred the above complaint report [REDACTED]

-On 2-25-20, the above complaint report was accepted by [REDACTED] for investigation. [REDACTED] was assigned to [REDACTED] for investigation.

-On 2-25-20, Child Care Inspection Specialist, Tammy Reeves phoned the director and asked them to retain video recordings for 1-27-20, 2-7-20 and 2-10-20. The director stated that they were not certain how long the videos were stored in the system.

-On 3-2-20, Child Care Inspection Specialist, Tammy Reeves and [REDACTED] conducted an unannounced complaint inspection to the facility.

-On 3-2-20, Sarpy County Sheriff's office accepted the report for investigation. Investigator Spurgeon was assigned to the case.

391 NAC 3-006.32B Alcohol and Controlled Substances #3:

-Unable to Substantiate

391 NAC 3-006.02 Director Requirements #10:

-Unable to Substantiate

391 NAC 3-006.20A Prohibited Forms of Discipline #9:

-Substantiated-
Submit correction to CCIS by 4-17-20
CORRECTED
5-19-20, training certificate received via email.

On 3-2-20, Reeves [REDACTED] conducted an unannounced complaint inspection to the facility and interviewed several staff.

Interview with the director:

Reeves [REDACTED] discussed allegations with the director that Staff 1 comes to work under the influence of Xanax and is falling asleep, laying on the floor as kids climb on staff 1. The director stated that they have not observed staff 1 appearing to be under the influence of drugs or falling asleep. The director stated that they were previously able to review some video of staff 1 in the classroom and staff 1 did not display any of those behaviors. (It is to be noted that the video recordings were not available for Reeves [REDACTED] to review at the time of inspection, as the recording storage dates had expired.)

The director stated that they are not aware of staff 1 taking medications that interfere with staff 1's performance at work. The director states that they are aware of staff 1 having anxiety, but they do not know if staff 1 takes Xanax, as it is not really her business.

The director pulled staff 1's Health Information Report for Reeves to review. Reeves did not observe any information on the form that would indicate a medical or mental health issue. The director states that staff 1 worked in a classroom with staff 3 and the two did not get along. The director states that staff 3 reported that staff 1 did not help out in the classroom enough.

The director states that staff 3 is no longer employed at the center. The director states that staff 5 also worked in a classroom with staff 1. The director states they questioned staff 5 about staff 1 being under the influence or falling asleep and staff 5 stated they had never observed any of those behaviors from staff 1.

The director states that no staff have asked to review video recordings except for one staff who fell in the parking lot. The director states that when concerns from parents or staff are brought to them, management follows up on those concerns by either viewing the video cameras or interviewing possible witnesses.

The director stated that staff 1 previously worked for Millard Public Schools and needed a change, so came to Rosewood for employment. The director stated that they are aware that staff 1 previously worked with older children and needed some coaching in working with younger age children.

On 3-10-20, [REDACTED] interviewed the director regarding allegations that staff 1 pushes, pulls, drags and yells at children. The director states that there had been reports that staff 1 had grabbed a child in an abrupt manner under the elbow, which is not aligned with their policy. The director states that staff 1 was informed of the correct procedure to handle children as to not accidentally injure them.

The director states that was also a report that staff 1 had placed a blanket over a child's head at naptime. The director states that staff 1 was not being aggressive when she put the blanket on the child's head, just trying to block outside distractions for the child. The director states that staff 1 was informed that it was not appropriate to place a blanket over the child's head to help them sleep. The director states that staff 1 accepts correction from management and is cooperative.

Interview with Staff 1:

Reeves [REDACTED] interviewed staff 1 regarding allegations that staff 1 is under the influence of Xanax and is falling asleep, laying on floor while children crawl on staff 1. Staff 1 states that they take a prescription medication for anxiety, but does not take any controlled substances. Staff 1 states the medication does not make them drowsy and staff 1 denied ever falling asleep at work.

Staff 1 states that they did not get along with a previous staff person there (staff 3) and that person made up a rumor about staff 1 being on drugs.

Reeves [REDACTED] questioned staff 1 regarding the allegations that staff 1 pushes, pulls, drags and yells at children. Staff 1 states that they have never seen staff being rough, pushing or pulling children. Staff 1 denies that they personally have been rough, pushing or pulling children. Staff 1 states that they have held a child's hand when they grabbed another teacher's hand, but didn't intentionally keep walking or pull on the child's hand.

Staff 1 stated that they have had correction from management in the past and had to make adjustments to the tone of staff 1's voice. Staff 1 states they previously worked with school age children, so have had to make adjustments in talking and handling younger children. Staff 1 admits to having a voice that sounds like they are being mean, but they are not. Staff 1 stated that they would never hurt children and knows that the children and parents like her. Staff 1 stated that they were told by management not to place a blanket over children's head to help them fall asleep and staff 1 has followed that rule.

Interview with Staff 2:

Reeves [REDACTED] interviewed staff 2, who is a member of the management team. Reeves [REDACTED] discussed allegations with staff 2 that staff 1 is under the influence of Xanax and is falling asleep, laying on floor while children crawl on staff 1. Staff 2 stated that staff 3 brought concerns to them that staff 1 fell asleep in a classroom, but staff 2 was unable to find any evidence of this when they reviewed the video tape. Staff 2 states that management regularly checks to ensure staff are not sleeping.

Staff 2 states that staff 1 and staff 3 had personal conflicts, but staff 3 no longer works there. Staff 2 states that they are not aware or have any concerns that staff 1 uses drugs or substances at work. Staff 2 confirmed that staff 1 takes a prescription medication, but is not aware of the name of the medication. Staff 2 states that they do not have concerns with staff 2 being overly drowsy or sleeping in a classroom.

Staff 2 stated that they observed staff 1 leading children incorrectly, so she showed staff 1 how to lead a child in a safe manner. Staff 2 stated that what was observed was not overly aggressive or harmful to the child, but not what Rosewood expects from staff.

Staff 2 stated that they were informed staff 1 was holding down children on cots during naptime. Staff 2 stated that they viewed the video tape and observed staff 1 had a hand on child 1 and child 2's cots, but did not feel it was aggressive or a restraint.

Staff 2 states that they have conferenced with staff 1 about the tone of staff 1's voice being a 'bit harsh'.

Staff 2 states that staff 1 has a voice that 'carries and has a rougher tone', so they have asked her to speak in a softer tone.

Staff 2 states that when concerns are brought to management by staff or parents, the director or staff 2 addresses the issue immediately. Staff 2 states that they do not announce what action management takes to follow up or correct the issue, as it is not the other staff's business. Staff 2 states that they will communicate with parents if issues are brought to their attention.

Interview with Staff 3:

[REDACTED] interviewed staff 3, who stated that they previously worked at the center, but no longer wanted to work there because the director wouldn't do anything about staff 1 being too rough and aggressive with children. Staff 3 states that staff 1 was especially aggressive with child 2 and it wasn't reported to the parents because staff were told not to say anything.

Interview with Staff 4:

[REDACTED] interviewed staff 4 regarding allegations that staff 1 is under the influence of Xanax and is falling asleep, laying on floor while children crawl on staff 1. Staff 4 stated that staff 1 takes too much medicine and describes staff 1 as 'lethargic and sleepy'. Staff 4 denies seeing staff 1 sleeping.

[REDACTED] questioned staff 4 regarding the allegations that staff 1 pushes, pulls, drags and yells at children.

Staff 4 stated that they had concerns with staff 1 being rough with children. When asked, staff 4 described rough as 'picking up or abruptly picking up children and pulling on them'. Staff 4 stated on one occasion they saw a child holding their arm and crying. When staff 4 asked the child what was wrong the child replied 'staff 1'.

Interview with Staff 5:

Reeves [REDACTED] interviewed staff 5 regarding allegations that staff 1 is under the influence of Xanax and is falling asleep, laying on floor while children crawl on staff 1. Staff 5 states they have worked in both of the toddler rooms and knows there was 'some drama' between staff in one of the rooms.

Staff 5 states that they have not observed anyone who appear to be using drugs, high or sleeping during child care hours.

Reeves and [REDACTED] questioned staff 5 regarding the allegations that staff 1 pushes, pulls,

Drags and yells at children.

Staff 5 denied seeing any staff handle children roughly and stated staff 5 would report it to management if it was observed.

Interview with Staff 6:

█████ interviewed staff 6 regarding allegations that staff 1 is under the influence of Xanax and is falling asleep, laying on floor while children crawl on staff 1. Staff 6 is a former staff of Rosewood. Staff 6 stated they observed staff 1 often being 'drowsy and sleepy' approximately three years ago.

█████ questioned staff 6 regarding the allegations that staff 1 pushes, pulls, drags and yells at children. Staff 6 stated they saw staff 1 grab a child and drag the child out of the classroom. Staff 6 described dragging the child as 'staff 1 was walking with a child and the child would fall to the ground, staff 1 would continue to walk. Staff 6 felt this was aggressive because children were being pulled by their arms. Staff 6 stated that they never saw marks or bruising on children caused by staff 1. Staff 6 states they reported the incident to the director, but does not know the outcome of the report.

No citations were issued, nor were any criminal charges filed regarding the allegations listed in this report.

Conclusion:

Violations of 391 NAC 3-006.32B, Alcohol and Controlled Substances #3 and 391 NAC 3-006.02 Director Requirements #10 are found to be Unable to Substantiate as there is not sufficient evidence to prove or disprove the allegations.

Based on the above facts, a violation of 391 NAC 3-006.20A Prohibited Forms of Discipline #9 is found to be Substantiated.

Correction required:

1. Staff 1 shall obtain two hours of approved training from an outside source, regarding positive interaction with young children. This training can be on-line.
2. The director/personnel management shall create a written plan to monitor and counsel Staff 1's interaction with children.

Submit specifics of the training (including the title, trainer, and date) and the director monitoring plan to CCIS, Reeves by April 17, 2020.

SENT: April 3, 2020