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STATE OF NEVADA

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES
BUREAU OF SERVICES FOR CHILD CARE
4126 Technology Way
Carson City, Nevada 89706
(775) 684-4463 • FAX (775) 684-4455**

NOTICE OF SUSPENSION AND ORDER OF SUMMARY SUSPENSION

September 28, 2007

Licensee: Sky View Academy
Number 10, 21st Street
Hawthorne, NV. 89415

Action:

YOU ARE HEREBY NOTIFIED the Bureau of Services for Child Care of the Division of Child and Family Services (hereinafter "Bureau") is summarily suspending license number 723. The Bureau finds that the public health, safety or welfare requires this emergency action to suspend your license pursuant to NRS 432A.190 and NAC432A.230. All parents are to be notified that Sky View Academy will not be open for services after 11:59PM, October 5, 2007 and Sky View Academy cannot operate until further notice.

Purpose of Licensing:

NRS 432A.010 / legislative findings and declaration The legislature finds and declares

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that it is desirable that children of our state in need of day care services receive adequate and safe care outside of their own homes, and it is the intent of state and local governments to assist in meeting such needs through an administrative procedure which will further the following objectives:

1. Safe and responsive child care facilities and services.
2. Adequate methods to pay the costs of child care on an individual basis in already existing child care programs.
3. Proper operation of child care programs.
4. Provision of services by other public agencies on a subcontracted or purchased basis.

Authority:

NRS 432A.190 Denial, suspension or revocation of license: Grounds. The bureau may deny an application for a license or may suspend or revoke any license issued under the provisions of this chapter upon any of the following grounds:

- Violation by the applicant or licensee or any employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this state or of the standards and other regulations adopted there under.
- Aiding, abetting or permitting the commission of any illegal act.
- Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.
- Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.
- Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

NAC 432A.230 (1). In addition to the grounds set forth in NRS 432A.190, the Bureau may suspend or revoke the license of a licensee on the ground that:

- (a) The health or safety of a child in the facility is being endangered; or
- (b) The facility is not in compliance with standards for safety from fire and other emergencies or standards for health and sanitation as determined by the Bureau after an inspection of any building or premises of the facility conducted pursuant to NRS 432A.180.

Basis:

This suspension is in response to incidences where children in the care of Sky View Academy participated or experienced in sexual or physical assault when a lack of appropriate supervision by staff of Sky View Academy occurred. This violates the following sections of NAC 432A:

NAC 432A.520 General Requirement. (NRS. 077) A licensee of a child care facility shall have a staff which is sufficient in number to provide physical care and individual attention to each child and allow time for interaction between the staff and the children to promote the children's social competence, emotional well-being and intellectual development.

NAC 432A.302.2.a The staff of a child care facility must be able to: Work with children without recourse to physical punishment or psychological abuse.

NAC432A.302.2.d *The staff of a child care facility must be able to: Work with parents and include them, whenever possible, in the programming and functioning of activities.*

NAC 432A.390 Standards for programs. (NRS 432A.077)

1. Every licensee of a facility shall develop a program to meet the basic needs of children for:

- (a) Good health and normal physical development;*
- (b) Optimal mental growth;*
- (c) Stimulating language and communicative experiences;*
- (d) The attention, acceptance and affection of others;*
- (e) Opportunities to experience success and to test mental, physical and social skills;*
- (f) Self-identity and a sense of competence and worth;*
- (g) The security provided by gentle discipline;*
- (h) Relations with others which set forth the rights of adults and the rights of children;*
- (i) Learning experiences planned with the aid of the child's parents which ensure harmony with the life style and cultural background of the child;*
- (j) Activities which facilitate social growth and adjustment; and*
- (k) The time and opportunity to learn independence and personal care.*

2. A licensee of a facility shall teach each child personal hygiene. The licensee of a facility shall require all children to wash before meals and after using a toilet.

3. If the weather permits, all children must have a daily period of outdoor play. A licensee of a facility shall provide opportunities for active play which builds muscles such as climbing, jumping, running and playing with toys which have wheels. The quantity and quality of materials and equipment must be sufficient to avoid excessive competition between the children and long waiting periods to use the materials or equipment.

4. Every child who is in a facility for more than 5 hours per day must have a period for a nap during the day. A child who cannot sleep must rest during the period provided for a nap. The licensee of a facility shall provide a cot, mat or bed for each child.

5. The amount, variety and arrangement and use of materials and equipment used in a facility must be appropriate to the developmental needs of the children cared for in the facility. Materials must be stored in a manner that allows children to select, remove and replace the materials independently or with minimal assistance.

6. Furniture must be durable, safe and intended for use by children or appropriately adapted for use by children.

7. A licensee of a facility shall provide space for the storage of the children's clothing and the storage must be within easy reach of the children. [Bd. for Child Care, Child Care Facilities Reg. §§ 6.1-6.8, eff. 2-28-80.]

NAC432A.400.2.g *A member, employee or other person associated with a facility shall not, for any reason: Subject a child to any form of punishment by other children. Parental consent to allow any person within the facility to punish a child contrary to the provisions of this section is void.*

Incidents:

1. May 30, 2007 – Division of Child and Family Services (hereinafter DCFS) Child Protective Services (hereinafter CPS) worker informed Bureau regarding a report they received where staff “threaten new enrollees to pull down their pants for a cavity search and sexual acts are performed during this process”. The Bureau conducted an on site investigation where the above allegations were not confirmed, however students reported to the Bureau that “staff tease students saying they are going to perform cavity searches, but they never actually follow through.” Which is a violation of 432A400.2b. Sky View Academy did not report the alleged child abuse and neglect incident to the Bureau which is a violation of NAC 432A.410.

2. June 14, 2007 - CPS worker reported to Bureau of a report received by a staff member alleging an employee of Sky View Academy was transporting children. The employee, at the time, was suspended from employment pending background clearance. The Bureau investigated the complaint and found the staff member had a second place of employment with an independent transportation company. This service is paid for by parents of Sky View students. The staff member's supervisor at the transportation company acknowledged his employee's waiver process at Sky View and stated he "assumed the suspension was only temporary and that a waiver would be coming any day and it was just a formality". The Bureau did not authorize the employee to work at Sky View or with the children at the facility until the background check process was complete. However, because the Bureau does not monitor the private transportation company and is separate from the facility, no violation was found regarding any 432A regulation. The Bureau is concerned the employee had contact with children of Sky View without the appropriate clearance.
3. September 12, 2007 – CPS informed the Bureau of an incident involving two children alleged they are "constantly harassed by other students" and "staff stand by and watch". One student alleged that another student "ejaculated semen into a syringe and shot the liquid into his face while staff observed and laughed." This is a violation of NAC 432A.520. One student reported students "chop up their medicine and snort it". This allegation was not confirmed. Another student reported a particular student "wraps a towel around his head and acts like he is humping other students while staff observe and laugh". Sky View Director reported staff member was instigating "hazing type activities and had been sleeping on duty." It was reported staff member encouraged students to jump into the shower with other students and squirt lotion on students while they were sleeping. The allegation was confirmed which is a violation of NAC 432A.306 and NAC 432A.302.2.a. Sky View Academy responded by terminating the accused staff member stating they had "broadened their search for quality male staff and have increased the presence of supervisors in the dorms to monitor staffs' behavior".
4. September 14, 2007 – Caller reported similar incident of staff sleeping while on shift and engaging in hazing type behaviors. This was confirmed in response to the September 12, 2007 report, which violates NAC 432A. 520, NAC 432A.306.1.c and NAC 432A.302.2.a.
5. September 28, 2007 – Parent reported her child was physically and sexually assaulted by 2 other children at the facility. The 2 offenders were arrested and the victim was medically examined and underwent a forensic interview. The medical examination confirmed sexual assault. The child that was a victim of the sexual assault is now home and is making other disclosures to his mother such as:
 - The child reported writing a letter to his mother regarding a hazing incident of having objects inserted into his body.
 - A letter was written by the child to staff, who did not appear to intervene. (This letter was later confiscated off of the named staff member by the policy department)
 - Named staff is dishonest to parents regarding student's behavior to prolong stays resulting in a greater financial gain.
 - Many children are hazed and abused on a regular basis.
 - Blanket parties occur which involve the performance of sexual acts among students who disguise themselves with towels.
 - Students are lacking the appropriate clothing due to other students urinating and/or ejaculating on their belongings and are not given replacement clothing.
 -
6. September 29, 2007 – CPS informed the Bureau a child was slapping parts of his body against the face of a handicapped child 2 weeks ago and ran from the facility on September 28, 2007. The offender was later caught approximately 50 feet from the Sky View campus. Sky View then called Juvenile Probation Officer (hereinafter JPO) and the child was charged with lewdness in response to the perpetrator's admittance to the sexual act on another child. JPO indicated students are terrorized by the above mentioned perpetrator and often have to transfer the perpetrator to several dorms in response to his behavior with other students. Staff did not appear to intervene when notified of this behavior. JPO requested involved agencies to collaborate to ensure the safety of children is being met. Sky View

Academy did not report the alleged child abuse and neglect incident to the Bureau which is a violation of NAC 432A.410. The admittance of this act by the perpetrator found Sky View Academy in violation of NAC 432A.520.

7. September 29, 2007 - Bureau received a copy of a letter written by Sky View Academy's Director (also posted on facility's website) to all parents of students at Sky View. The letter informed parents that a "hazing incident that was sexual in nature occurred at the facility" and listed the responses made by the facility to ensure children would be safe. The incident mentioned in the letter was not a "hazing incident", it was a confirmed physical and sexual assault on a student residing in the facility who had to be removed by his parents. The Bureau does not believe the information given to parents was accurate.

After receiving the above mentioned reports which consisted of sexual and physical abuse allegations among the students at Sky View and the lack of supervision by Sky View staff, the Bureau is suspending Sky View Academy's license and will continue with an investigation of all the allegations. At this time, the Bureau is not able to confirm the safety of the children in Sky View Academy's current operation and requests a more thorough investigation to determine the facility's future status.

Hearing Notification:

NRS 432A.200 Denial, suspension or revocation of license: Notice; hearing.

- When the bureau denies, suspends or revokes a license for a child care facility, the bureau shall afford reasonable notice to all parties by certified mail, which notice must contain the legal authority, jurisdiction and reasons for the action taken.*
- The aggrieved person may file notice of appeal with the chief within 10 calendar days after receipt of notice of action of the bureau.*
- Within 20 calendar days after the receipt of notice of appeal, the chief shall hold a hearing.*
- Notice of the hearing must be given no less than 5 days before the date set for the hearing.*

Hearing Contact:

Chrystal Main, Hearing Officer
Division of Child and Family Services
4126 Technology Way
Carson City, NV 89706
775-684-4453

The above referenced hearing is to determine if the Bureau of Services for Child Care acted within its authority to suspend this license.

Melissa Faul, Bureau Chief

cc: Linda Anderson, Deputy Attorney General
Tammy Tovey-Stephenson, Deputy Attorney General
Fernando Serrano, Administrator
Barbara Legier, Deputy Administrator
Amber Vestbie, Social Services Chief II
Chrystal Main, Hearing Officer
Donna Durham, Child Care Surveyor II



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