

February 24, 2023

CERTIFIED MAIL

Ali Abdi Jama, Authorized Agent
Midtown Learning Center LLC
2812 13th Ave. S
Minneapolis, MN 55407

License Number: 1104087 (Rule 3)

ORDER OF CONDITIONAL LICENSE

Dear Ali Abdi Jama:

The Department of Human Services (DHS) is placing your license to provide childcare at Midtown Learning Center LLC located at 2750 Park Ave Suite 100, Minneapolis, MN, on conditional status for two years, beginning March 6, 2023. This means you must meet certain conditions to maintain your license, detailed below. This order is based on your noncompliance with child care center licensing requirements. Details of our findings are also provided below. Our next steps and your options are also detailed.

REASON FOR THE CONDITIONAL LICENSE

On December 19, 2022, DHS licensors conducted a licensing review and investigation at your facility located at 2750 Park Ave Ste 100 Minneapolis, MN 55407. As a result of this licensing visit, the DHS licensors determined that your program failed to comply with the laws and rules that apply to licensed child care centers, citing 31 violations. DHS has considered the nature, chronicity, and severity of these violations, as well as the health, safety, and rights of children served by the program.

Nature and Severity: On December 19, 2022, DHS licensors determined 31 violations. Additionally, 12 of 31 violations are repeat violations for which you were previously cited. Numerous violations related to the health and safety of children, including:

- Failure to comply with staff training requirements, including orientation, CPR, first aid, and child development and learning
- Failure to maintain adequate staff to child ratios
- Failure to maintain staff distribution requirements
- Failure to comply with requirements related to infant care including bottle labeling, annual crib checks, documentation of crib names and model numbers, and monthly crib safety inspections
- Failure to comply with behavior guidance requirements
- Failure to comply with cleanliness requirements

- Failure to keep hazardous items away from children
- Failure to comply with handwashing requirements for children
- Failure to comply with USDA requirements

Chronicity: Your program received its license on October 5, 2021. Since that time, your program has demonstrated a history of noncompliance with licensing rules and statutes. The information below summarizes this history:

- February 24, 2023 Conditional License (this order): 31 violations (11 repeat)
- September 2, 2022 Correction Order: 9 violations
- June 24, 2022 Correction Order: 8 violations (2 repeat)

Due to the serious and chronic nature of these violations, and the conditions in the program, which impact the health and safety of children in your care, your license to provide child care is placed on a conditional status.

Licensing Violations

DHS determined that your program failed to follow licensing rules and statutes, as described below.

STAFF QUALIFICATIONS AND TRAINING

1. **Violation:** The program did not have documentation on site to show that 1 of 1 (SP5) staff persons met the:
 - education requirements of the director job classification for which the staff person was employed (SP5); and
 - experience requirements of the director job classification for which the staff person was employed (SP5).

Citation: Minnesota Rules, part 9503.0031, subpart 1; and part 9503.0120, item B

2. **Violation:** The program did not have documentation on site to show that 2 of 3 (SP1 and SP3) staff persons met the:
 - education requirements of the teacher job classification for which the staff person was employed (SP1); and
 - experience requirements of the teacher job classification for which the staff person was employed (SP1 and SP3).

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated September 2, 2022.

Citation: Minnesota Rules, part 9503.0032, subpart 2; and part 9503.0120, item B

3. **Violation:** The program did not comply with cardiopulmonary resuscitation (CPR) training requirements.

Documentation was not available on site to show that 5 of 6 (SP1, SP2, SP3, SP4 and SP5) individuals (director, staff persons, substitutes, or unsupervised volunteers) had satisfactorily completed the required pediatric CPR training including the treatment of obstructed airways and a hands-on skill assessment:

- within 90 days of the start of work or within the previous two years (SP2, SP3, SP4 and SP5); and
- before unsupervised contact with a child (SP1, SP2, SP3 and SP4).

Repeat Violation The license holder was previously cited for a similar violation in a Correction Order dated June 24, 2022.

Citation: Minnesota Statutes, section 245A.40, subdivision 4 and Minnesota Rules, part 9503.0120, subpart D

4. Violation: The program did not comply with first aid training requirements. Documentation was not available on site to show that 5 of 6 (SP1, SP2, SP3, SP4 and SP5) individuals (director, staff persons, substitutes, or unsupervised volunteers) completed pediatric first aid training:

- within 90 days of the start of work or within the previous two years (SP2, SP3, SP4 and SP5); and
- before unsupervised direct contact with a child (SP1, SP2, SP3 and SP4).

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated June 24, 2022.

Citation: Minnesota Statutes, section 245A.40, subdivision 3 and Minnesota Rules, part 9503.0120, subpart D

5. Violation: The program did not comply with child development and learning training requirements. Documentation was not available on site to show that 5 of 5 (SP2, SP3, SP4, SP5 and SP6) individuals (director, staff persons, substitutes, or unsupervised volunteers) completed training within 90 days of employment (SP2, SP3, SP4, SP5 and SP6).

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated September 2, 2022.

Citation: Minnesota Statutes, section 245A.40, subdivision 2

PROGRAM PRACTICES

6. Violation: The required staff-to-child ratios were not maintained.

From approximately 5:50 p.m. to 6:15 p.m., the DHS licensors observed one aide supervising 16 school-age children. To meet the required staff-to-child ratio a second staff person was required. (School Age 1 classroom)

Citation: Minnesota Rules, part 9503.0040, subpart 1

7. Violation: Staff distribution requirements were not maintained. A teacher or assistant teacher did not directly supervise an aide.

- There were two aides supervising 16 school age children. A staff person with the qualifications of a teacher was required. (School Age 1 classroom)
- From approximately 5:50 p.m. to 6:15 p.m., there was an aide supervising 16 school age children. A second staff person with the qualifications of a teacher was required. (School Age 1 classroom)
- There was an aide supervising one preschool child. A staff person with the qualifications of a teacher was required. (Preschool classroom)
- There was an aide supervising three toddler children. A staff person with the qualifications of a teacher was required. (Toddler classroom)

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated September 2, 2022.

Citation: Minnesota Rules, part 9503.0034, subpart 1; and part 9503.0040, subpart 2, item D

INFANT CARE

8. Violation: Daily written reports about a child's food intake, elimination, sleeping patterns, and general behavior were not provided to parents.

It was determined through a conversation with a staff person that written reports are not completed on a daily basis. A staff person stated if there are concerns about a child it is communicated through a text or phone call to the parent. (Toddler classroom)

Citation: Minnesota Rules, part 9503.0090, subpart 2, item D

9. Violation: Each infant's feeding schedule was not available in the food preparation area. (Infant classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 7, item B

10. Violation: Each infant's bottle was not labeled with the child's first and last name.

There were two bottles in a diaper bag that were not labeled with the child's first and last name in the toddler classroom. (Toddler classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 7, item D

11. Violation: All crib brand names and model numbers were not checked annually against the U.S. Consumer Product Safety Commission website listing of unsafe cribs.

Crib brand names and model numbers were not checked in 2022.

"Annual or "annually" means prior to or within the same month of the subsequent calendar year.

Citation: Minnesota Statutes, section 245A.146, subdivision 3

12. Violation: The required crib safety inspections were not completed on a monthly basis.

Crib safety inspections were not completed in October and November of 2022.

Citation: Minnesota Statutes, section 245A.146, subdivision 4

BEHAVIOR GUIDANCE

13. Violation: The program violated the behavior guidance policy prohibiting certain disciplinary actions.

At approximately 5:50 p.m., the DHS licenser observed a staff person grab a child roughly by the arm and speak loudly in their face, "Where are you going?" (School Age 1 classroom)

Citation: Minnesota Rules, part 9503.0055, subpart 3

PHYSICAL ENVIRONMENT

14. Violation: The program did not comply with cleanliness requirements; the indoor space was not clean. (School Age 2 classroom):

- There was a fork on the floor beside the table.
- There was a candy wrapper on floor beneath the table.
- The table was visibly dirty and sticky to touch. (School Age 2 classroom)

As defined in Minnesota Rules, part 9503.0005, subpart 9, clean means 'free from dirt or other contaminants that can be detected by sight, smell, or touch.'

Repeat Violation: The license holder was previously cited for a similar violation in a Technical Assistance report dated April 4, 2022.

Citation: Minnesota Rules, part 9503.0140, subpart 9

15. Violation: Areas used by the children were not in good repair.

- The base board trim in the boy's bathroom was peeling off the wall. (Facility)
- There was a small hole in the wall above the electrical outlet behind the highchairs in the infant classroom. (Infant classroom)

Citation: Minnesota Rules, part 9503.0140, subpart 20

16. Violation: The program did not provide the children access to interest areas on a daily basis. Children were not provided daily access to a:

- science interest area in the toddler and preschool classrooms, and;

- sensory stimulation activities interest area in the preschool and school age 1 classrooms.

There was no equipment or materials available to carry out science activities in the toddler and preschool classrooms.

It was determined through a conversation with a staff person that there were no sensory stimulation activities available to children in the preschool classroom.

It was determined through a conversation with a staff person that sensory stimulation activities are offered twice a week in the school age 1 classroom.

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated September 2, 2022.

Citation: Minnesota Rules, part 9503.0045, subpart 2

17. **Violation:** Indoor space was not available for children in attendance between 8:30 and 8:45 p.m.

It was determined through a conversation with an administrative staff person that on a daily basis between 8:30 p.m. and 8:45 p.m. any children still in attendance are moved out of the facility to a staff person's car due to the building alarm being triggered. The children remain in the staff person's car until they depart around 8:45 p.m.

Citation: Minnesota Rules, part 9503.0155, subpart 9

HAZARDS

18. **Violation:** The DHS licensor observed that hazardous objects were accessible to children.

There was a plastic garbage bag accessible to children in the stroller located in the hallway outside of the infant classroom. (Facility)

There was a box of garbage bags accessible to children in a tub on the changing table shelf in the infant classroom. (Infants)

Repeat Violation: The license holder was previously cited for a similar violation in the following orders:

- A Technical Assistance Report dated April 4, 2022
- A Correction Order dated June 24, 2022
- A Correction Order dated September 2, 2022

Citation: Minnesota Statutes, section 245A.66, subdivision 2, paragraph (e) and Minnesota Rules, part 9503.0140, subpart 17

HEALTH AND SAFETY

19. **Violation:** A child's hands were not washed with soap and water before eating (School Age 1 classroom).

The DHS licensor observed children eat snack without washing their hands prior to having snack.

Citation: Minnesota Rules, part 9503.0140, subpart 13

20. Violation: The program did not ensure that meals and supplemental snacks were available to the children.

The DHS licensors observed meals provided by the parents that lacked the fruit and vegetable component required by the USDA. The program did not supplement the missing components.

Citation: Minnesota Rules, part 9503.0145, subpart 1

21. Violation: Meals did not comply with the nutritional requirements of the USDA.

Documentation showed that only one snack and one meal were being offered each day. For children that were in attendance for 5 to 8 hours only one meal and snack were being offered. A minimum of one meal and two snacks or two meals and one snack for children in attendance five to ten hours is required.

Citation: Minnesota Rules, part 9503.0145, subpart 4

22. Violation: Menus and snack did not comply with the nutritional requirements of the USDA. Menus did not include:

- a fruit;
- a vegetable;
- at least one whole grain rich food per day; and
- the type of milk (whole, 1%, skim).
- Snack did not include two of the four food components identified by the USDA (fluid milk, juice or fruit or vegetable, meat or meat alternate, bread/bread alternate or cereal).
- The DHS licensor observed the children being served potato chips for evening snack. Potato chips are not a creditable grain component, two additional food components were required. (School Age 1)

The menu posted in the kitchen did not show that fruit and milk were offered at dinner. There were three days the dinner menu lacked a vegetable component. The menu did not reflect a whole grain rich food item being offered at least once per day. The menu did not identify the type of milk offered to children of different age categories.

The snack menu indicated that snacks and drinks included apples, fruit, juice, crackers. However, it was determined through a conversation with staff persons that the snack menu posted did not align with what was being served to children. Staff stated that cookies, milks, chips, and sometimes apples are offered at snack in the toddler, preschool and school age 1 classrooms.

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated June 24, 2022.

Citation: Minnesota Rules, part 9503.0145, subpart 2

23. Violation: The program did not comply with refrigeration requirements. The refrigerator was not maintaining a temperature of 40 degrees Fahrenheit or less.

The refrigerator had a temperature of 42 degrees Fahrenheit. (Facility)

Citation: Minnesota Rules, part 9503.0145, subpart 3

24. Violation: Products to control diaper rash were not labeled with the child's first and last name.

- There were two packages of diaper wipes in the infant classroom that were not labeled with a child's name. Through discussion with classroom staff, it was determined that the diaper wipes were supplied by the program and used on multiple children. The wipes were not labeled with the program's name.
- There was one package of diaper wipes in the toddler classroom that were not labeled with a child's name. Through discussion with classroom staff, it was determined that the diaper wipes were supplied by the program and used on multiple children. The wipes were not labeled with the program's name.

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated June 24, 2022.

License Holder Response received on July 25, 2022: *Toddler staff members were instructed to make sure for future to label all of the diaper rash products with child's first and last name.*

Citation: Minnesota Rules, part 9503.0140, subpart 7, item D

25. Violation: The program did not comply with first aid kit requirements. The first aid kit did not contain:

- ice bag or cold pack; and
- oral or surface thermometer.

Citation: Minnesota Rules, part 9503.0140, subpart 16

26. Violation: The program did not comply with the reporting requirements for abuse and neglect; staff persons were not aware of the reporting requirements for abuse and neglect.

Not all staff person were aware of the reporting requirements. A staff person stated s/he would report any suspected abuse and neglect to the front office.-

Citation: Minnesota Rules, part 9503.0130, subpart 1

EQUIPMENT AND SUPPLIES

27. Violation: The center lacked the following furnishings, equipment, materials, or supplies:

Infant classroom

- Music source
- Music selections
- 2 soft, washable toys
- 5 crib sheets
- Covers for changing table

School Age 2 classroom

- Sufficient amount of arts and craft supplies
- Music source
- 1 set of manipulative toys
- 2 rhythm instruments

School Age 1 classroom

- 3 rhythm instruments
- Materials and accessories to support the dramatic play equipment

Preschool classroom

- 12 rhythm instruments

Citation: Minnesota Rules, part 9503.0060

28. Violation: The minimum amount of equipment specified for an age category was not accessible every day to the children of that age category.

There were six puzzles wrapped in plastic wrap in the infant classroom. Through a discussion with a staff person it was determined that the puzzles had been in the classroom a week. Toys must be accessible to children every day.

Citation: Minnesota Rules, part 9503.0060, subpart 1

29. Violation: Equipment and furniture were not in good repair.

The blinds were bent and in disrepair in the infant classroom.

Repeat Violation: The license holder was previously cited for a similar violation in a Correction Order dated September 2, 2022.

Citation: Minnesota Rules, part 9503.0140, subpart 19

CHILDREN'S FILES

30. Violation: One of 4 (C4) children's files reviewed did not contain documentation of a current physical examination received within 30 days of enrollment.

Citation: Minnesota Rules, part 9503.0125, item G; and part 9503.0140, subpart 3

POLICIES AND ADMINISTRATIVE RECORDS

31. Violation: The program did not have:

- documentation of a fire drill; and
- documentation of a tornado drill.

There was no documentation onsite to show that a fire drill was completed in April, May, June, July, August, September, and November of 2022.

There was no documentation onsite to show that a tornado drill was completed in April, May, June, July, and August of 2022.

Citation: Minnesota Rules, part 9503.0110, subpart 3, items D and E and subpart 4, item B

Immediate corrective action required

You must immediately correct the violations cited above. Submit documentation to your licensor within 30 days from when you received this order explaining how you have corrected the violations. If you fail to demonstrate substantial compliance with child care requirements or with the terms of your conditional license that are provided below, DHS may take an additional licensing action, including revocation, against your license.

Additionally, DHS will not approve a request to increase your child care services from the date of this order until the time your conditional license expires.

CONDITIONAL LICENSE TERMS

In addition to the child care licensing rules and statutes, you are required to comply with the following terms:

1. Within 15 days from receipt of this order, you must provide written notification of the conditional status of your license to all parents/legal guardians. Prior to providing the written notification to all parents/legal guardians, you must submit the written notice to your DHS licensor for approval. The notification must specify the length of time of the conditional status of your license, the reasons your license was made conditional, and must include either a copy of the Order of Conditional License or an offer to provide a copy of the order upon request.
2. On an ongoing basis while your license is on a conditional status, you must maintain a list of all newly hired employees who will have direct contact with children served by the program. The documentation required under this term must be maintained onsite and made immediately available to DHS upon request. For each individual on the list, you must document the following:
 - the individual's full name;
 - the individual's job title;
 - the date of hire;
 - the date the individual first had direct contact with children served by the program; and
 - the date the background study request was submitted to DHS.
3. On a monthly basis while your license is on conditional status, you must complete staffing patterns that identify every staff person and his/her job title included in the staff-to-child ratio for each classroom and maintain all completed staffing patterns onsite. The staffing information must be documented on the enclosed form titled "Staffing Patterns," must be completed separately for each classroom, and must include the total number of children in attendance each hour for each classroom. The documentation must include the time each person takes their break, if applicable, and identify the name of the person who replaces them. Staffing patterns must be completed at the beginning of each month and made immediately available to the Commissioner upon request.
4. Within 30 days from receipt of this order, you must develop a written plan to ensure staff to child ratios are maintained at all times and submit the plan to your licensor for approval.
5. Within 30 days from receipt of this order, you must develop a written plan to ensure:
 - a) written dietary instructions are obtained from the parent or legal guardian of each infant and a feeding schedule for each infant is available in the food preparation area; and
 - b) daily written reports are provided to infant and toddler parents that include the child's food intake, elimination, sleeping patterns, and general behavior.

Your plans for ensuring written dietary instructions are obtained for infants and daily written reports are provided to parents must be submitted to your licensor for approval prior to use. After approval by your licensor, you must training all staff who work with infants on the plans and maintain documentation of the training onsite.

6. Within 30 days from receipt of this order, you must submit a menu for all meals and snacks to be provided to children for March and April 2023, to your licensor. The menus must demonstrate that the meals and snacks comply with the nutritional requirements of the United States Department of Agriculture (USDA). In addition, you must maintain a copy of monthly menus for all meals and snacks onsite.

YOUR RIGHT TO REQUEST RECONSIDERATION

You have the right to request reconsideration of this order and the cited violations. Your request must:

- Be in writing
- Clearly state that you are requesting reconsideration of the conditional license
- List each citation you are challenging and identify what is inaccurate or incomplete about the information in the order
- Supply information that is accurate or more complete
- State why you believe your license should not be on a conditional status
- Be made before the deadlines provided below

If you are mailing your request, it must be sent by certified mail and postmarked within 10 calendar days from when you received this order. If you do not meet this deadline, you lose your right to request reconsideration. The timeline to appeal began when you received this order. Please send it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attn: Licensing Legal Unit
PO Box 64953
St. Paul, MN 55164-0953

If your request is being personally delivered, it must be received by DHS within 10 calendar days from when you received this order. Please bring it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attn: Licensing Legal Unit
444 Lafayette Road North
St. Paul, MN 55155

Conditional license stayed pending reconsideration

If you request reconsideration within the timeframes described above, the terms of the conditional license will not take effect until a decision is issued by DHS. If the conditional license is affirmed on reconsideration, the

terms would take effect on the date of the reconsideration decision, and run for two years from that date. You continue to be required to comply with all child care laws and rules.

Posting of this licensing action

You are required to place this Order of Conditional License in a place that is clearly noticeable to the people receiving services and all visitors to the facility for two years, even if you appeal.

Legal authority for this licensing action

- This action is taken under Minnesota Statutes, section 245A.06, subdivision 1.
- Child care centers are required to follow Minnesota Rules, parts 9503.0005 to 9503.0170; and Minnesota Statutes, Chapters 245A, 245C, and 260E.
- The timeline to request reconsideration of the order is provided in Minnesota Statutes, section 245A.06, subdivision 4.
- The requirement to post this order in a clearly visible location is required under Minnesota Statutes, section 245A.06, subdivision 8.
- If a license holder files a timely reconsideration request, the terms of the conditional license are stayed pending a decision by DHS under Minnesota Statutes, section 245A.06, subdivision 4.
- Minnesota Statutes, section 245A.06, subdivision 3 states that DHS may impose additional licensing actions against a license holder that does not correct the violations cited in a conditional license order.

Questions

If you have any further questions regarding this matter, you may contact Donna Gainor, Supervisor, at 651-431-6529.

Sincerely,



Peggy Cunningham, Unit Manager
Licensing Division
Office of Inspector General