

January 23, 2024

Chad Dunkley, Authorized Agent  
New Horizon Academy  
3405 Annapolis Lane N, Suite 100  
Plymouth, MN 55447

License Number 1109757 (Child Care Center)

## **ORDER TO PAY A FINE FOR BACKGROUND STUDY VIOLATION**

Dear Chad Dunkley:

The Department of Human Services (DHS) is ordering you to pay a fine of \$200 for one background study violation that occurred at New Horizon Academy, located at 14665 Mercantile Drive North, Hugo, Minnesota. Details of our findings are provided below. Our next steps and your options are also detailed.

### **Reason for the Fine**

DHS is issuing this fine order based on your failure to comply with the following background study requirement:

#### **Background Study Violation Determined on November 17, 2023**

During a licensing review, a DHS licensor determined that you failed to meet the background study requirements for one staff person before s/he began working in a position allowing direct contact with children served by the program.

SP1 began providing direct contact services to persons served at license number 1109757 on October 16, 2023. You initiated a background study for SP1 on December 18, 2018, under license number 1007914. You separated SP1 from that license number on October 26, 2023. You initiated another background study for SP1 under license number 1007914 on October 16, 2023. However, SP1's fingerprints were not submitted within 14 days and the background study was closed on October 31, 2023, and you were informed to immediately remove SP1 from a position allowing direct contact services. After DHS notified you to remove SP1 you initiated another background study request for SP1 on November 20, 2023.

Statute Violated: Minnesota Statutes, section 245C.04, subdivision 1, paragraph (g); Minnesota Statutes, section 245C.05, subdivision 2.

Fee: \$200 (one background study violation— fineable at \$200 per violation)

Corrective Action Required: You must comply with background study requirements in Minnesota Statutes, chapter 245C. Within 10 days from receipt of this order, submit written documentation to your licensor detailing how compliance will be maintained in the future.

## Billing and Payment of the Fine

DHS will send you an invoice for the \$200 fine. Payment must be made as directed on the invoice.

If you request a contested case hearing, as described below, do not pay the fine at this time. Following the contested case hearing, the Commissioner of DHS will issue a final order on this matter.

Please note, you may not avoid payment of this fine by closing, selling, or otherwise transferring the license to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

## Your Right to Appeal

You have the right to appeal this fine. If you choose to appeal this order, you must use the Provider Hub (<https://providerhub.dhs.mn.gov/>) to submit your request. Your request must be made before the deadline provided below. If you do not meet this deadline, you lose your right to an administrative appeal. The timeline to appeal began when this order was issued in the Provider Hub.

Your request for an appeal must be submitted in the Provider Hub within 10 calendar days from the date it was issued in the Provider Hub.

Upon DHS' receipt of your timely appeal, your case would be scheduled for a contested case hearing in front of an Administrative Law Judge. Following this hearing, the Commissioner of DHS will issue a final order.

## Legal representation at the contested case hearing

You do not need a lawyer to appeal. However, a lawyer can help you with your appeal. The state or county will not get you a lawyer and will not pay for a lawyer. If you cannot afford a lawyer, you may be able to get free legal advice or help with your appeal. To find out if free help is available, contact: Volunteer Lawyers Network at 612-752-6677; Central Minnesota Legal Services at 612-332-8151; Southern Minnesota Legal Services at 651-222-4731; or go to [www.justice4mn.org](http://www.justice4mn.org) to find a local legal services program that may be able to help you.

You can also find information on contested cases from the Office of Administrative Hearings website at <https://mn.gov/oah/self-help>. Click on Administrative Law Overview, then click on Administrative Law Contested Case Hearing Guide for a list of frequently asked questions.

## Posting of this Licensing Action

You are required to place this Order to Pay a Fine 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.

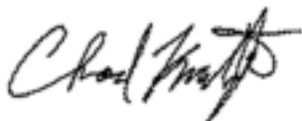
## Legal Authority for this Licensing Action

- DHS may impose a \$200 fine for each background study violation under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(4)(iv).
- The exception that allows a license holder who self-corrects a background study violation to avoid a fine does not apply when the license holder was cited for the same violation within the past 365 days, under Minnesota Statutes, section 245A.07, subdivision 4, paragraph (d).
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(5) states that license holders may not avoid payment of a fine by closing, selling, or transferring a license.
- License holders have a right to appeal licensing actions and request a contested case hearing, under Minnesota Statutes, chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.
- The requirement to post this order in a clearly visible location is required under Minnesota Statutes, section 245A.07, subdivision 5.

## Questions

If you have any further questions regarding this matter, you may contact me at 651-431-6030, extension 4018.

Sincerely,



Chad Kratzke, Unit Supervisor  
Licensing Division  
Office of Inspector General