

August 27, 2024

Deeqo Abi, Authorized Agent
Open Arms Early Education and Child Care Center
3355 Hiawatha Avenue, Suite 150
Minneapolis, MN 55406

License Number 1056213 (Child Care)

ORDER TO PAY A FINE FOR BACKGROUND STUDY VIOLATION

Dear Deeqo Abi:

The Department of Human Services (DHS) is ordering you to pay a fine of \$800 for four out of five background study violations. 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 2, 2021:

1. As a result of a licensing review, a DHS licensor determined that you failed to request a background study for two staff person before they began working in a position allowing contact with children served by the program and you did not verify that the information collected about the person was correct before initiating a background study request to DHS.

SP1 was hired and began working in a position allowing contact with persons served by the program on June 12, 2013. You initiated a background study request to DHS for SP1 April 2, 2022, however, you misspelled SP1 last name. You initiated another background study on July 21, 2024, however, you misspelled SP1 last name. Because DHS conducted a background study using an incorrect last name for SP1, the background study conducted by DHS on SP1 was not a valid study.

SP2 was hired and began working in a position allowing contact with persons served by the program on February 4, 2020. You initiated a background study request to DHS for SP2 February 10, 2020, however,

you misspelled SP2 first name. You initiated another background study on December 13, 2022, however, you misspelled S2 first name. Because DHS conducted a background study using an incorrect first name for SP2, the background study conducted by DHS on SP1 was not a valid study.

2. When preparing for a licensing review, a DHS licensor determined you failed to repeat a background study for a child care program staff within five years of the staff person's most recent study.

SP3 began working in a position allowing direct contact services to persons served by the program on January 9, 2020. SP3's fingerprints were taken on November 20, 2018. You initiated a background study request for SP3 on November 14, 2018. Because SP3's fingerprints were taken on November 20, 2018, SP3 background study expired on November 20, 2023. You initiated another background study on March 5, 2024.

Because you self-corrected the background study violation involving SP1 before the Commissioner discovered the violation, the license holder is not being fined for the background study violation involving SP1.

SP4 began working in a position allowing direct contact services to persons served by the program on July 18, 2019. SP4's fingerprints were taken on June 21, 2019. You initiated a background study request for SP4 on June 20, 2019. Because SP4's fingerprints were taken on June 21, 2019, SP4 background study expired on July 6, 2024. You initiated another background study on July 16, 2024.

SP5 began working in a position allowing direct contact services to persons served by the program on June 27, 2023. SP5's fingerprints were taken on January 2, 2019. You initiated a background study request for SP5 on August 11, 2023. Because SP5's fingerprints were taken on January 2, 2019, SP5 background study expired on June 24, 2024. You initiated another background study request on July 16, 2024.

Although you -corrected the background study violation involving SP4 and SP5 by submitting the background study before a DHS licensor became aware of the violations, at least 365 days had not passed since you previously self-corrected the background study for SP3.

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

Fine: \$800 (five background study violation – four fineable at \$200 per violation)

Corrective Action Required: Correct immediately and submit your response through the Provider Hub within 30 days from the date of this letter detailing how compliance has been achieved. You must maintain compliance going forward.

Billing and Payment of the Fine

DHS will send you an invoice for the \$800 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 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

- This action is taken under Minnesota Statutes, section 245A.07, subdivision 1, paragraph (a), which describes under which conditions DHS may impose a fine against a license.
- DHS may impose a \$200 fine for each background study violation under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(4)(iv).
- 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-.

Sincerely,

A handwritten signature in black ink that reads "Donna Gainor". The signature is written in a cursive, flowing style.

Donna Gainor, Unit Supervisor
Licensing Division
Office of Inspector General