

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

September 27, 2018

JR. ALPHABET ACADEMY
BJM Kids, INC., Owner
Bradley D. Metzler, Licensee
8001 Keystone Drive
Omaha, NE 68134

Dear Mr. Metzler:

In accordance with the Notice of Disciplinary Action issued on September 4, 2018, by Courtney N. Phillips, PhD, Chief Executive Officer, Department of Health and Human Services, the original License of Jr. Alphabet Academy to operate as a Child Care Center in the State of Nebraska has been placed on Probation. A license imprinted with the term "PROBATION" is enclosed. This status became effective September 20, 2018, and it will remain in effect until September 20, 2019. Upon completion of the Probation, a new license will be issued to the Center.

Additionally, a Civil Penalty was assessed in the amount of \$160.00. The Civil Penalty payment was received on September 20, 2018.

At this time we ask that you submit your current license by return mail, within the next seven (7) days, to DHHS, Division of Public Health, Licensure Unit, Attn: Chris Kort, 301 Centennial Mall South, Lincoln, NE 68509-4986.

If you have any questions, please contact Jo Pfeiffer, Child Care Licensing Supervisor, at (402) 595-3335.

Sincerely,



Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/dcp

cc: Children's Services Licensing

This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

State of Nebraska

PROBATION Department of Health and Human Services
Division of Public Health

BJM KIDS INC

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Child Care Center
located at: 2851 CAPEHART RD STE J Bellevue NE 68123


A maximum of 32 children in ages 6 WKS to 18 MOS may be in attendance at any one time during the hours of 0600 to 1800 on MTWTHF.

JR. ALPHABET ACADEMY owned by BJM KIDS INC is hereby issued License No. CCC9434 which is effective on 02/28/2015

Amended: 09/20/2018

Given under the name and Seal of the Department of Health and Human Services Division of Public Health of the State of Nebraska at Lincoln on September 27, 2018.




Courtney N. Phillips, PhD
Chief Executive Officer
Department of Health and Human Services

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

September 26, 2017

Jr. Alphabet Academy
o/b BJM Kids Inc.
8001 Keystone Drive
Omaha, NE 68134

CERTIFIED AND FIRST CLASS MAIL

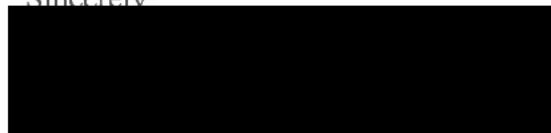
Dear Licensee:

Since you did not appeal the Notice of Disciplinary Action dated September 8, 2017 by or on September 25, 2017, you are being assessed a civil penalty in the amount of \$96.00 (\$3.00 times license capacity of 32 children for one day of non-compliances, July 27, 2017). This penalty must be received by or on October 26, 2017.

Your check or money order should be payable to the Nebraska Department of Health and Human Services and sent to Rita Krusemark, Program Specialist, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, PO Box 94986, Lincoln, Nebraska, 68509-4986.

If you have questions, please contact Jo Pfeiffer, Child Care Licensing Supervisor, Children's Services Licensing at 402-595-3335.

Sincerely,



Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/rk
Cc: Children's Services Licensing

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER)
LICENSE OF JR. ALPHABET ACADEMY)
Owned by BJM KIDS INC)

**NOTICE OF
DISCIPLINARY ACTION**

LICENSED LOCATION: 8001 Keystone Dr., Omaha, NE 68134

LICENSE NUMBER: CCC9434

CAPACITY: 32

AGES: 6 WEEKS TO 18 MONTHS

HOURS AND DAYS: 6:00 A.M. TO 6:00 P.M., MONDAY THROUGH FRIDAY

DATE INITIALLY LICENSED: February 17, 2014

NOTICE:

Jr. Alphabet Academy owned by BJM Kids Inc (hereinafter referred to as "Jr. Alphabet Academy") is hereby notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") intends to impose disciplinary action against Jr. Alphabet Academy's Child Care Center license for violation of the following statutes and regulations:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act; ...

Nebraska Revised Statutes, section 71-1920, of the Child Care Licensing Act provides that "...the Department may impose any one or a combination of the following types of disciplinary action against a license issued under the Child Care Licensing Act: ... (c) impose a civil penalty of up to five dollars per

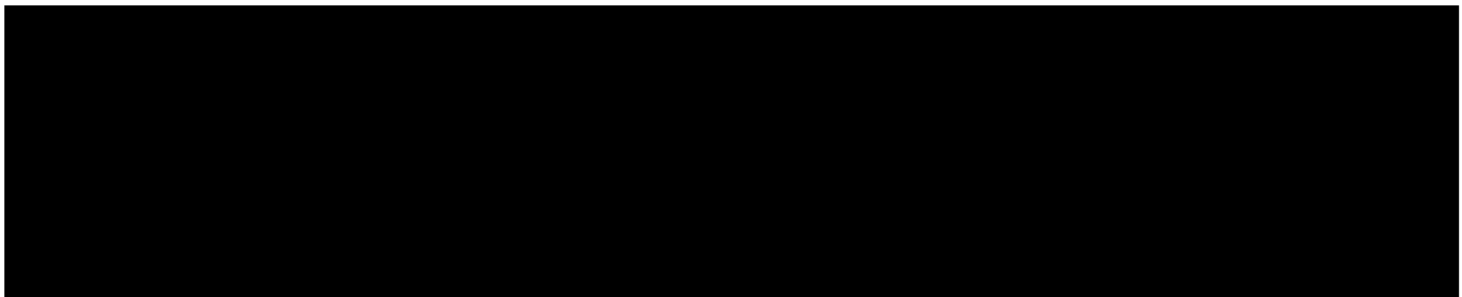
child, based upon the number of children for which the program is authorized to provide child care on the effective date of the finding of violation, for each day the program is in violation;" ...

391 NAC 3-008.01 Grounds for Denial or Disciplinary Action: "The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act; ...

391 NAC 3-006.02 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.

391 NAC 3-006.03A Criminal History Record Checks: The applicant/licensee, if an individual or an individual in a partnership, must complete a pre-employment criminal history record check on him/herself, on each staff member and volunteer age 19 or older, and on each household member age 19 or older if the center is located in a private residence. Documentation must be kept and available for review by the Department.



391 NAC 3-006.05B Non-Certificated Teachers: To be employed as a teacher in a licensed child care center, an individual who is not a certificated teacher must be at least 18 years of age and of good moral character, and must meet one of the following requirements:

4. Have a high school diploma or GED; and
 - a. 1500 verified clock hours of experience in organized group activities for young children as indicated by a positive reference from a former employer or supervisor; or
 - b. Submit a written plan for Department approval to acquire at least three credit hours or 45 clock hours of training in administration, early childhood education, education, or child/youth development, in a period not to exceed six months. The licensee must maintain a copy of the written plan and Department approval for Department review.

391 NAC 3-006.10A Orientation: When new staff or volunteers are employed, those individuals must be provided with orientation prior to their having direct responsibility for the care of children.....

391 NAC 3-006.11A Staff: Records for all staff, except substitutes and volunteers, must include:

4. Date of hire/termination;
5. A completed Report of Law Enforcement Contact;
6. Documentation of a criminal history record check;
8. Documentation of Nebraska registry checks with no adverse findings;
9. Documentation that the individual has met the qualifications for the position;
10. Documentation of orientation training and required ongoing training; and
11. Documentation that the individual has read and understands these regulations.

391 NAC 3-006.23 Infant/Toddler Care: If care is provided to infants and/or toddlers, the licensee must ensure that the emotional and physical needs of infants and toddlers are met consistently and promptly. Staff assigned to infants must be identified in writing and assigned to the same infants whenever possible. Center staff must:

3. Hold infants under six months of age or those not yet able to hold their own bottles. Bottles must not be propped and must be removed from sleeping infants.

FACTS:

Jr. Alphabet Academy was on a Disciplinary Probation from January 23, 2017 through July 23, 2017.

On July 27, 2017, Dawn Kozak (hereinafter referred to "Kozak"), Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, conducted an unannounced semiannual inspection of Jr. Alphabet Academy. At that time, Kozak observed the following violations:

- There were three staff present at the time of Kozak's inspection: Delea Hite; Bailey Hite; and Kayly Stednitz. .
 - Bailee Hite's employee file was missing the following information: hire date; staff qualification documents; sex offender registry check; criminal history record check; documentation of completing orientation; documentation that she had read the regulations; documentation of receiving the Center Policies and Procedures; written documentation by the Director that Hite can give medication.
 - Kayly Stednitz's employee file was missing the following information: hire date; documentation of either 1500 hours of experience or a plan to obtain 45 hours of training; documentation of completing orientation; documentation that she had read the regulations; documentation of receiving the Center Policies and Procedures; written documentation by the Director that Stednitz can give medication.
- Kozak observed an infant sleeping in a crib with a bottle in her hand. Kozak also observed the assignment of caregivers was from the day before and had not been updated.

These violations were the same as some of those for which the facility was placed on Probation from January 23, 2017 through July 23, 2017.

On August 30, 2017, Jo Pfeiffer, Child Care Licensing Supervisor, sent Jr. Alphabet Academy a letter requiring verification of compliance with regulations by September 27, 2017. As of September 5, 2017, all corrections have been made and Jr. Alphabet Academy is in compliance.

DISCIPLINARY ACTION IMPOSED:

Based upon the facts set out above, the Department intends to impose the following:

1. Jr. Alphabet Academy is assessed a Civil Penalty in the amount of \$96.00 (\$3.00 times license capacity of 32 children for one day of non-compliances, July 27, 2017).

Said penalty in the amount of \$96.00 must be paid on or by October 26, 2017 which is thirty (30) days from the effective date of this notice, September 26, 2017 and must be payable to the Nebraska Department of Health and Human Services, Division of Public Health. Said penalty is to be sent to Rita Krusemark, Program Specialist, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, PO Box 94986, Lincoln, Nebraska, 68509-4986.

2. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations, and failure to pay the civil penalty may be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on September 25, 2017, unless the Department receives a written request for a hearing on or before such date. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request on or before such date, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no later than September 25, 2017. It should be addressed to:

Rita Krusemark, for DHHS
Children's Services Licensing
Licensure Unit – Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-4986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service

provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

Nebraska Revised Statutes, section 71-1920 of the Child Care Licensing Act, provides that “any fine imposed and unpaid under the Child Care Licensing Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of State of Nebraska in the district court of the county in which the program is located.”

That Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides “a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee.”

Dated: September 8, 2017

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services



Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 8 day of September, 2017, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to JR. ALPHABET ACADEMY, owned by BJM KIDS INC, 8001 Keystone Dr, Omaha, NE 68134.



Rita Krusemark, Program Specialist

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

January 24, 2017

Jr. Alphabet Academy owned by
BMJ Kids, INC.
8001 Keystone Dr.
Omaha, NE 68134

RE: Licensed Location: 2851 Capehart RD. STE. J
Bellevue, NE 68123
Atten: Brad Metzler

SENT CERTIFIED and Regular Mail

Re: Disciplinary Action –Plans of correction- Time Sensitive

Dear Mr. Metzler:

As a result of your withdrawal for request for hearing regarding the Disciplinary Action dated November 18, 2016, the Department has reviewed the documentation received by our office on December 6, 2016.

The Department requires additional items to satisfy the conditions of the discipline. Please submit the following documents within 10 days from the date of this letter.

- A complete and current list of all staff currently providing care at Jr. Alphabet Academy
- Provide qualification statements for all staff EXCEPT: Bri C., Shelbie E., and Chloe W., and Kim A., (These have previously been received and are acceptable.)
- Correct the qualification statements for: Faith L-hire date, Destiny H-statement needs to reflect teacher status and date she was approved as a qualified teacher, Taylor M-a statement showing her as a teacher (remove support staff designation) and have Kim sign the statement at the bottom
- Provide the Department with a plan that explains how the Department will know that the Licensee is performing the Corrective Plan tasks, as spelled out in the plan. For example: Licensee will keep a log of dates he dropped in and what was observed, dates files were reviewed, and maintain this written verification on the child care premises for Department review, etc.

Please submit these documents with 10 days of the date of this letter and once approved by the Department you will receive a letter acknowledging compliance with the disciplinary order.

Thank you for your attention to this matter, and I look forward to hearing back from you.

Sincerely, [REDACTED]

Jo Pfeiffer, Child Care Licensing Supervisor
Children's Services Licensing
Phone: 402-595-3335 Email: Jo.pfeiffer@nebraska.gov

Cc: Dawn Kozak, CCIS
Marsha Wandersee, Administrative Assistant II

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

January 24, 2017

JR. ALPHABET ACADEMY
Bradley Metzler, Licensee
2851 Capehart Road, Suite J
Bellevue, NE 68134

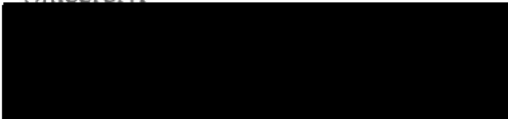
Dear Mr. Metzler:

In accordance with the Order of Dismissal for withdrawal of the Request for a Hearing dated January 23, 2017, regarding the Notice of Disciplinary Action, your original License to operate a Child Care Center in the State of Nebraska has been placed on Probation. A license imprinted with the term "PROBATION" is enclosed. This status became effective January 23, 2017, and it will remain in effect until July 23, 2017. Upon completion of the Probation, a new license will be issued to you.

At this time we ask that you submit your current license by return mail, within the next seven (7) days, to DHHS, Division of Public Health, Licensure Unit, Attn: Marsha Wandersee, 301 Centennial Mall South, Lincoln, NE 68509-4986.

If you have any questions, please contact Jo Pfeiffer, Child Care Licensing Supervisor, at (402) 595-3335.

Sincerely,


Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/dcp

cc: Children's Services Licensing



This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

State of Nebraska

PROBATION

Department of Health and Human Services
Division of Public Health

BJM KIDS INC

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Child Care Center
located at: 2851 CAPEHART RD STE J Bellevue NE 68123

A maximum of 32 children in ages 6 WKS to 18 MOS may be in attendance at any one time during the hours of 0600 to 1800 on MTWTHF.

JR. ALPHABET ACADEMY owned by BJM KIDS INC is hereby Issued License No. CCC9434 which is effective on 02/28/2015

Amended: 01/23/2017

Given under the name and Seal of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska at Lincoln on January 26, 2017.



The [Redacted] [Redacted] MD Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

331253



FILED
01/23/2017
DHHS Hearing Office

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

IN THE MATTER OF)
THE REQUEST FOR HEARING BY) 162104 CCC
JR ALPHABET ACADEMY) ORDER OF DISMISSAL

This matter came on for consideration of the Appellant's withdrawal of the request for hearing on the record. The Hearing Officer, being fully advised, finds that this matter should be DISMISSED.

IT IS SO ORDERED.

DATED this 23rd day of January, 2017.

susan Strohn
Hearing Officer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent by certified United States Mail, postage prepaid, return receipt requested, and/or electronically to the following:

BRAD METZLER
BJM KIDS INC
2851 CAPEHART RD STE J
BELLEVUE NE 68123

CJ ROBERTS
DHHS ATTORNEY
CHRISTOPHER.ROBERTS@NEBRASKA.GOV

on January 23, 2017.


DHHS Hearing Office
P.O. Box 95026
Lincoln, NE 68509-5026
P. (402) 471-4731 F. (402) 742-2374
dhhs.hearingoffice@nebraska.gov

7002 2410 0000 8566 9479



Division of Public Health

State of Nebraska
Pete Ricketts, Governor

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER)
LICENSE OF JR. ALPHABET ACADEMY) NOTICE OF
OWNED BY BJM KIDS, INC.) DISCIPLINARY ACTION

LICENSED LOCATION: 2851 CAPEHART RD., STE. J, BELLEVUE, NE, 68123
LICENSE NUMBER: CCC9434
CAPACITY: 32
AGES: SIX WEEKS TO 18 MONTHS
HOURS AND DAYS: 6:00 A.M. TO 6:00 P.M., MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 17, 2014

NOTICE:

BJM Kids, Inc. (hereinafter referred to as "Licensee") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against the Licensee's Child Care Center license known as Jr. Alphabet Academy for violation of the following statutes and regulations:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

- (1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;" ...

Nebraska Revised Statutes, section 71-1920, of the Child Care Licensing Act provides that "...the Department may impose any one or a combination of the following types of disciplinary action against a license issued under the Child Care Licensing Act: (a) Issue a probationary license;" ...

191 NAC 3-008.01 Grounds for Denial or Disciplinary Action: "The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act;

4. Conduct or practices detrimental to the health or safety of an individual served by or employed at the program;" ...

391 NAC 3-006.02 Director Requirements: "The director is responsible for managing the day-to-day operations of the child care center. ... The director must: ... 13. Ensure that staff-to-child ratios are met at all times; ...

391 NAC 3-006.03A Criminal History Record Checks: "The applicant/licensee, if an individual or an individual in a partnership, must complete a pre-employment criminal history record check on him/herself, on each staff member and volunteer age 19 or older, and on each household member age 19 or older if the center is located in a private residence. Documentation must be kept and available for review by the Department.

The check must be conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived in Nebraska less than 12 months, the applicant/licensee must obtain documentation of a criminal history record check from the previous state(s) of residence."

391 NAC 3-006.03B Registry Checks: "The applicant/licensee, if an individual or an individual in a partnership, staff, volunteers, and household members if the center is located in a private residence, must not be listed as a perpetrator of abuse or neglect on the Nebraska:

1. Child abuse/neglect central register, if the individual is age 13 or older;
2. Adult protective services (APS) central registry if the individual is age 18 or older; or
3. State Patrol sex offender registry.

The individual must provide enough information for an accurate check of the registries and must authorize the release of registry information. The Department will conduct the child and adult registry checks and provide the results to the applicant/licensee.

The applicant/licensee must conduct the State Patrol sex offender registry check. All registry checks must be completed before the individual assumes responsibility for the care and supervision of children."

391 NAC 3-006.03C Report of Law Enforcement Contact: "The applicant/licensee must complete a Report of Law Enforcement Contact for him/herself, if an individual or an individual in a partnership, and must obtain a completed report for each staff member and volunteer age 19 or older and each household member age 19 or older if the center is located in a private residence. The report must:

1. Be updated, signed, and dated annually;
2. Be updated any time one of these individuals is arrested, issued a citation other than a minor traffic violation, or charged with or convicted of any felony, misdemeanor, or infraction;
3. List all previous and pending criminal charges and arrests, both felony and misdemeanor, regardless of prosecution;
4. List any record of felony and/or misdemeanor charges and arrests related to crimes against children;
5. List any record of felony and/or misdemeanor convictions;
6. List any current or past parole or probation status, including diversion or court supervision; and
7. List details, dates, county and state of the contact, arrest, charge, conviction, and disposition, if any."

391 NAC 3-006.05B Non-Certificated Teachers: "To be employed as a teacher in a licensed child care center, an individual who is not a certificated teacher must be at least 18 years of age and of good moral character, and must meet one of the following requirements:

1. Hold a bachelor's degree from an accredited college or university in early childhood education, education or child/youth development;
2. Hold an associate degree from an accredited college or university in early childhood education, education or child/youth development;
3. Have a Child Development Associate Credential; or
4. Have a high school diploma or GED; and
 - a. 1500 verified clock hours of experience in organized group activities for young children as indicated by a positive reference from a former employer or supervisor; or
 - b. Submit a written plan for Department approval to acquire at least three credit hours or 45 clock hours of training in administration, early childhood education, education, or child/youth development, in a period not to exceed six months. The licensee must maintain a copy of the written plan and Department approval for Department review."

391 NAC 3-006.10A Orientation: "When new staff or volunteers are employed, those individuals must be provided with orientation prior to their having direct responsibility for the care of children. The orientation must include:

1. Job duties and responsibilities;
2. Infection control practices including proper hand washing techniques, personal hygiene, and disposal of infectious material;
3. Information on abuse, neglect and sexual abuse of children and the state's reporting requirements;
4. Child care center regulations;
5. Evacuation plans in the event of fire;
6. Safety plans in the event of a tornado;
7. Emergency preparedness in the event of a natural or man made disaster; and
8. The center's method of interacting with children and discipline policies."

391 NAC 3-006.11 Employee Records Requirements: "The licensee must ensure the following employee records are maintained, updated as needed, and made available to the Department upon request. Records must be maintained for at least one year after an employee leaves the center."

391 NAC 3-006.11A Staff: "Records for all staff, except substitutes and volunteers, must include:

1. Name;
2. Address and telephone number;
3. Social Security Number;
4. Date of hire/termination;
5. A completed Report of Law Enforcement Contact;
6. Documentation of a criminal history record check;
7. A completed Health Information Report;
8. Documentation of Nebraska registry checks with no adverse findings;
9. Documentation that the individual has met the qualifications for the position;
10. Documentation of orientation training and required ongoing training; and
11. Documentation that the individual has read and understands these regulations."

391 NAC 3-006.15B Staffing Requirements: ... "2. Each room where children are receiving care must have a teacher who is involved with the direct care of children." ...

391 NAC 3-006.15C Staff-to-Child Ratio: "The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis.

Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows.

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
School-age	15	1"

391 NAC 3-006.16A Notification to Parents: "The licensee/director must notify parents of all enrolled children of any case of any reportable communicable disease on the same day the licensee is informed of or observes the illness, unless otherwise directed by the health authority. The health authority is the local health department for the area. Proper notification includes: 1. Notification to parents of children in attendance; 2. Notification to parents of enrolled children who are not in attendance on that day; and 3. Posting notice of the outbreak in a conspicuous place."

391 NAC 3-006.19 Supervision of Children: "Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee."

391 NAC 3-006.22B Beds, Cribs, and Sleeping Surfaces: "The licensee must ensure that sleeping surfaces appropriate to the child's age and level of development are available for each child in care. ... 2. The only acceptable sleeping surfaces for children age 12 months and under are cribs and playpens. When used, cribs and playpens must meet the following standards: ... c. Cribs and playpens must contain no soft objects, bumper pads, toys, or loose bedding. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the playpen and reach no higher than the infant's chest; and 4. Cribs, playpens, cots, and mats must be disinfected daily or marked for individual use and disinfected weekly or more often when needed."

391 NAC 3-006.23 Infant/Toddler Care: "If care is provided to infants and/or toddlers, the licensee must ensure that the emotional and physical needs of infants and toddlers are met consistently and promptly. Staff assigned to infants must be identified in writing and assigned to the same infants whenever possible. Center staff must: 1. Investigate the cries of infants immediately; 2. Hold, talk to, and engage in play activities with each child every day; 3. Hold infants under six months of age or those not yet able to hold their own bottles. Bottles must not be propped and must be removed from sleeping infants;" ...

391 NAC 3-006.23A Infant Care Rooms: "Rooms where infants are receiving care must be limited to the care of no more than 12 children at any one time. 1. If five or more infants are receiving care in a room, at least two staff members must be in the room. 2. If nine or more infants are receiving care in a room, at least three staff members must be in the room." ...

391 NAC 3-006.23B Diapering and Toileting: "1. The licensee must ensure that diapering procedures are established and followed by center staff. The procedures must include: ... e. Diaper-changing surfaces are cleaned after each use by sanitizing the surface or changing the diaper pad or disposable sheeting and are disinfected daily; and f. Proper hand washing is done after each diaper change."

FACTS:

Kimberly Arellano (hereinafter referred to as "Arellano") is listed as the director of record of this facility. Bradley Metzler (hereinafter referred to as "Metzler") is listed as Licensee of the program and President of the corporation.

On August 24, 2016 at 11:30 a.m., Dawn Kozak (hereinafter referred to as "Kozak"), conducted a complaint investigation to Jr. Alphabet Academy after receiving complaints that the program was caring for too many infants. Upon arrival, Kozak counted 26 infants in care. There were six staff present. Kozak observed a chaotic atmosphere that included numerous infants crying and staff failing to provide basic care.

There are four infant rooms in this program. Kozak observed nine infants with two staff (three staff were required) in one room and observed another room where one staff person was caring for five infants (two staff were required). The program did not have the appropriate number of staff in each infant room. Kozak asked the program to call Metzler and ask him to come to the program due to the urgency of the non-compliance with staff-to-child ratio and the chaotic environment. Metzler was called at around noon; however, because he was in a meeting outside of the child care, did not arrive at the program until around 3:00 p.m. Kozak instructed Arellano, prior to Metzler arriving, to begin reducing the number of infants in

care to ensure staff-to-child ratio was achieved, as well as to create an environment where staff were able to meet the immediate physical and emotional needs of the infants in care.

Parents were contacted over several hours to pick up children; however, the program remained out of ratio until 4:30 p.m.

Attendance records showed that:

- On August 22, 2016 at 8:00 a.m., there were 16 infants signed into the program with two staff clocked in. Regulations require at least four staff present. At 9:00 a.m. on this same date, there were 24 infants signed in with 4 staff clocked in. Regulations require at least six staff present in order to meet staff-to-child ratio.
- At 9:30 a.m. on August 23, 2016, there were 26 infants signed in with five staff clocked in. Regulations require at least seven staff present in order to meet staff-to-child ratio.
- At 9:00 on August 24, 2016, there were 24 infants signed in with 4 staff clocked in. Regulations require at least five staff present in order to meet staff-to-child ratio.

Kozak also observed the following:

- Staff person, Destiny, changed five infants in succession, but did not sanitize the changing pad or wash her hands in between diaper changes.
- Infant was sleeping in a crib with a bottle.
- Infants in all four rooms were crying in cribs, on the floor, in bouncy seats at the table and on mats. Staff did not investigate the cries immediately. Infants that were not crying received little or no attention and were not held due to staff attempting to tend to those that were crying.
- Infant was sleeping in a bouncy seat.
- Only six pack-n-plays were in a room where nine infants were present.
- Three infants were sleeping in pack-n-plays with unsecured blankets.
- Two different infants were placed one after another in a pack-n-play that had not been cleaned or disinfected.
- One infant was sleeping on the floor.
- Staff person, Destiny, left six infants alone in a room to go into another room.
- Infant had pink-eye but no notice was posted or parent notification given.

On August 24, 2016, it was determined that of the six staff on site, only two staff met teacher qualifications and one met support staff qualifications. Kozak reviewed the files of the six staff that were providing care on August 24, 2016. Arellano and Chloe Walker were the only qualified teachers present on August 24, 2016. The other four staff that were working with infants that day, Destiny Hatfield, Jessa Fiscus, Faith Leeds, and Holly LeBlanc, were not qualified, did not have the appropriate background checks conducted or orientation training. Hatfield stated she began caring for infants on August 24, 2016; while Jessa Fiscus and Faith Leeds stated they had each provided care for two or three days.

DISCIPLINARY ACTION IMPOSED:

Based upon the facts set out above, the Department intends to impose the following:

1. The Licensee's Child Care Center license is placed on probation for a period of six months effective December 6, 2016. The following terms and conditions will apply:

a. Infants must be assigned to a specific staff in each room. Staff assigned to infants must be identified in writing and assigned to the same infants whenever possible. If assigned staff are not available, an alternative plan must be available. Staff assignments must be posted.

b. By December 6, 2016, the Licensee will submit a written plan ensuring how ratio will be maintained in each infant room; especially during diapering and hand washing times.

The Department agrees that after reviewing this written plan, it will either approve or require modifications. If modifications are required, the Licensee must, within ten calendar days of notice by the Department, resubmit the written plan to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plan. Once approved, the Licensee agrees to implement the plan as approved by the Department.

c. By December 6, 2016, the Licensee will submit a written plan identifying how the program will ensure that all staff employed meet that qualifications for the positions they are assuming and that a person who meets teacher qualifications is in each room of the child care as required by regulations.

The Department agrees that after reviewing this written plan, it will either approve or require modifications. If modifications are required, the Licensee must, within ten calendar days of notice by the Department, resubmit the written plan to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plan. Once approved, the Licensee agrees to implement the plan as approved by the Department.

d. By December 6, 2016, the Licensee must submit a list of all current staff employed along with documentation that all staff employed meet the qualifications for the positions they are assuming.

e. By December 6, 2016, the Licensee will submit a plan as to how the Licensee and Director of Jr. Alphabet Academy will work in conjunction to ensure that there is an adequate number of qualified staff for the number of infants in care. This plan should also include specific actions to be taken by the Licensee and Director if proper staff is not available for the number of infants in care.

The Department agrees that after reviewing this written plan, it will either approve or require modifications. If modifications are required, the Licensee must, within ten calendar days of notice by the Department, resubmit the written plan to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plan. Once approved, the Licensee agrees to implement the plan as approved by the Department.

f. By December 6, 2016, the Licensee will establish and/or amend their current "Safe Sleep" Policies and Procedures to address proper sleeping surfaces and infant feeding. Staff who have the responsibility for caring for children will be trained in these Policies and Procedures 15 days after Department approval.

Documentation of staff being trained will be maintained on the center premises and available for review upon request by Department staff.

The Department agrees that after reviewing this "Safe Sleep" Policy and Procedure, it will either approve or require modifications. If modifications are required, the Licensee must, within ten calendar days of notice by the Department, resubmit the written Policy and Procedure to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written Policy and Procedure. Once approved, the Licensee agrees to implement the Policy and Procedure as approved by the Department.

g. By December 6, 2016, the Licensee will submit a written "Monitoring Plan" that includes verification by the Director that the "Safe Sleep" Policies and Procedures will be followed by all staff who have the responsibility for caring for children.

The Department agrees that after reviewing this written plan, it will either approve or require modifications. If modifications are required, the Licensee must, within ten calendar days of notice by the Department, resubmit the written plan to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plan. Once approved, the Licensee agrees to implement the plan as approved by the Department.

h. By December 6, 2016, the Licensee will establish and/or amend if necessary their current policy on how they will follow 391 NAC 3-006.16A Notification to Parents as it relates to notifying parents of all children of any case of any reportable communicable disease. Parents of all enrolled children must be provided a copy of this policy, and written verification of parent's receipt shall be maintained for Department review upon request. This policy must also be maintained on the premises and available for review upon Department request.

2. The Licensee is responsible for paying for all costs associated with compliance.

3. All documentation required must be submitted to Department, Attn: Dawn Kozak, Child Care Inspection Specialist, Children's Services Licensing, Licensure, Division of Public Health, State Office Building, 1313 Farnam, Third Floor, Omaha, Nebraska, 68102, or at such other address as directed in writing, by the Department.

4. Compliance will be monitored by Children's Services Licensing staff and may be monitored by other Department representatives (i.e., Fire Marshal or designated agent, Environmental Health Specialist/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). The Licensee and any employees and/or agents must cooperate with the Department in these monitoring inspections.

5. A copy of this Notice of Disciplinary Action must be posted with the current child care license so it is clearly visible to parents and agency representatives.

6. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations and failure to correct the violations will be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.

7. If the Licensee discontinues the child care program for any reason, the time the Licensee is not actively operating a licensed child care program will not count toward the probation period and any subsequent child care license issued by the Department indicating BJM Kids, Inc. and/or Jr. Alphabet Academy as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. The Licensee must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the provision of child care for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on December 5, 2016, unless the Department receives a written request for a hearing on or before such date. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request on or before such date, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department on or by December 5, 2016. It should be addressed to:

Marsha Wandersee, for DHHS
Children's Services Licensing – Licensure
Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-4986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

That Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time,

except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee.

Dated: *November 18*, 2016

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services



Becky Wiselk Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the *18* day of November, 2016, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to Jr. Alphabet Academy, 2851 Capehart Rd., Ste. J, Bellevue, Nebraska, 68123, BJM Kids, Inc., 8001 Keystone Dr., Omaha, Nebraska, 68134, Erickson & Sederstrom, P.C., Registered Agent, 10330 Regency Parkway Drive, Suite 100, Omaha, Nebraska, 68114 and Bradley Metzler, 8001 Keystone Drive, Omaha, Nebraska, 68134.


Marsha Wandersee