



**BRIGHT FROM THE START**  
Georgia Department of Early Care and Learning  
2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, Georgia 30334  
(404) 656-5957

**Nathan Deal**  
GOVERNOR

**Bobby Cagle, MSW**  
COMMISSIONER

February 22, 2012

**HAND DELIVERED AND VIA UPS OVERNIGHT DELIVERY**

Mr. C. Anthony Okeke  
Registered Agent  
Tonymagi Investments, LLC  
d/b/a Tender Kare Academy  
3628 Denewood Court  
Columbus, Georgia 31909

**REGULAR MAIL**

Ms. Victoria Jefferson  
Director  
Tender Kare Academy  
1100 Floyd Road  
Columbus, Georgia 31907

**RE: Notice of Revocation**

Dear Mr. Okeke and Ms. Jefferson:

Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) has concluded an investigation regarding the transportation of children without parental knowledge or permission at Tender Kare Academy located at 1100 Floyd Road, Columbus, Georgia 31907. It was determined during the investigation that serious rule violations occurred which seriously affected the health and safety of the children in care, which is a flagrant abuse that constitutes shocking intentional misconduct in accordance with Rule 591-1-1-.38(c)5. This demonstrated an intentional and/or reckless disregard for the physical health and safety of the children in care. Specifically, on January 26, 2012, multiple children were transported without the knowledge or permission of the children's parents. Additionally, the staff person who transported, and was alone with the children, did not have a criminal record check on file. On January 27, 2012, six children were transported without written permission from the children's parents. Furthermore, proper child restraints were not used while transporting the six children. The rule violations for which Bright from the Start is revoking the license are attached hereto as Exhibit "A" and incorporated in this Notice by reference.

Based on the facility's noncompliance with the rules, which subjected children to a potentially life-threatening situation, the licensee is hereby notified that the license to operate Tender Kare Academy is revoked. Bright from the Start's legal authority for revoking the license is found in O.C.G.A. Sec. 20-1A-12(b)(1), (3) and (5), 20-1A-12(c)(5), and 20-1A-10(r), and Bright from the Start's Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of the Rules and Regulation of the State of Georgia.

February 22, 2012  
Mr. Okeke  
Ms. Jefferson  
Page 2 of 6

In accordance with O.C.G.A. Sec. 20-1A-10(o), this revocation becomes effective thirty (30) days from receipt of this Notice. You have the right to appeal the decision to revoke the license by filing a written request for an administrative hearing before an Administrative Law Judge with the Office of State Administrative Hearings. The request must be made in writing within ten (10) days of receipt of this Notice and addressed to:

**J. Ashley Peacock**  
**Chief Legal Officer**  
**Bright from the Start**  
**Georgia Department of Early Care and Learning**  
**2 Martin Luther King Jr. Drive SE, Suite 754, East Tower**  
**Atlanta, Georgia 30334**

Please be advised that, if a hearing request is submitted, the program shall remain closed until the appeal decision is issued by the Office of State Administrative Hearings, since an Order of Intended Emergency Closure was issued by Bright from the Start on February 1, 2012, pursuant to O.C.G.A. Sec. 20-1A-13(c)(3), and such Order was affirmed by the Office of State Administrative Hearings on February 3, 2012. A copy of the Final Decision and Order Affirming Emergency Closure is attached hereto as Exhibit "B" and incorporated in this Notice by reference.

If the licensee does not appeal this action within ten (10) days of receipt of this Notice, the decision to revoke the license will be final. Licensure staff will conduct a follow-up visit to verify closure.

Sincerely,



Brenda Haynesworth  
Child Care Services Director

Attachments

cc: Kay Hellwig  
J. Ashley Peacock  
Kristie Lewis  
Ira Sudman  
Elisabetta Kasfir  
Candy Prince  
Vermisha Thompkins  
Mireille Emanuels  
Deborah Cobb  
Monica Warren  
Jackie Shivers  
Cindy Tharp  
Elizabeth Holland  
Judy LaRue  
State File

List of Rule Violations for:

Tender Kare Academy  
1100 Floyd Road  
Columbus, Georgia 31907

**1. Rule 591-1-1-.36(5) requires written parental authorization for children routinely transported.**

During an investigation, it was determined that parental authorization was not on file for multiple children, ages infant through two years, who were transported on January 26, 2012. The children's parents did not know that their children would be leaving the center or where they would be taken. In addition, parental authorization was not on file for six children who were transported on January 27, 2012. It was determined that routine transportation was provided by the center for at least three months without parental authorization. In addition, it was determined that a four-year-old child was routinely picked-up on foot from another daycare center without written parental authorization.

Failure of the center staff to obtain written parental authorization placed the children at risk of harm.

**2. Rule 591-1-1-.36(2)(f)1. requires that all children shall be secured in a child passenger restraining system or seat safety belt when being transported in accordance with state and federal laws and regulations.**

During an investigation, it was determined that six school age children were not properly restrained on the afternoon of January 27, 2012, when they were transported from their elementary schools to the center. Three of the children were not riding in booster seats, and the three other children were not wearing seat safety belts at all.

Failure of the center staff to properly restrain each child placed the children at risk of harm.

**3. Rule 591-1-1-.36(6)(a) requires the center to maintain current transportation information for each child on the vehicle.**

During an investigation, it was determined that current information for each child was not maintained on the vehicle for multiple children that were transported on January 26, 2012, and for six children that were transported on January 27, 2012. No information for the children being transported was on the vehicle.

Failure of the center staff to obtain current information for each child placed the children at risk of harm.

**4. Rule 591-1-1-.36(6)(b) requires the center to maintain emergency medical information on the vehicle for each child.**

During an investigation, it was determined that no emergency medical information was maintained for any child(ren) on the vehicle during transportation provided on January 26 and 27, 2012.

Failure of the center staff to obtain emergency medical information for each child placed the children at risk of harm.

**5. Rule 591-1-1-.36(6)(c) requires the center to maintain a passenger checklist on the vehicle.**

During an investigation, it was determined that no passenger checklists were maintained on the vehicle during transportation provided on January 26 and 27, 2012.

Failure of the center staff to maintain passenger checklists on the vehicle placed the children at risk of harm. This rule was previously cited on April 16, 2010.

**6. Rule 591-1-1-.36(6)(d)1. requires that at the completion of every trip, two final checks must be made to assure that no child remains on the vehicle.**

During an investigation, it was determined that two final checks of the vehicle were not documented as having been completed during transportation provided on January 26 and 27, 2012.

Failure of the center staff to document checking the vehicle placed the children at risk of harm.

**7. Rule 591-1-1-.36(2)(a) requires an annual vehicle inspection for all vehicles used for transporting children.**

During an investigation, it was determined that an annual vehicle inspection was not on file for a 15 passenger van that was used for transportation on January 27, 2012, and a personal vehicle that was used for transportation on January 26, 2012.

Failure of the center staff to obtain annual vehicle inspections placed the children at risk of harm.

**8. Rule 591-1-1-.36(2)(b) requires that vehicle interiors are clean and free of hazardous objects or non-essential items which could impede access or egress or cause injury in the case of a collision.**

During an investigation, it was determined that a container of antifreeze was accessible to children on the passenger door of a 15 passenger van during transportation from their elementary schools to the center on January 27, 2012. Additionally, the presence of the antifreeze posed another potential hazard in the case of a collision.

Failure of the center staff to ensure that the interior of the vehicle was free of hazards placed the children at risk of harm.

**9. Rule 591-1-1-.36(2)(c) requires that vehicles be equipped with a fire extinguisher.**

During an investigation, it was determined that no fire extinguisher was present on a personal vehicle used to transport children on January 26, 2012. In addition, the fire extinguisher on a 15 passenger van that was used to transport children on January 27, 2012, was empty and unable to be used in the case of an emergency.

Failure of the center staff to ensure that a functioning fire extinguisher was present on each vehicle placed the children at risk of harm.

**10. Rule 591-1-1-.36(3)(c) requires that the driver or another staff member on the vehicle have current cardiopulmonary resuscitation (CPR) training.**

During an investigation, it was determined that one staff person who transported children did not have current CPR training. Her CPR training was observed to be expired.

Failure of the center staff to have current CPR training placed the children at risk of harm.

February 22, 2012

Mr. Okeke

Ms. Jefferson

Page 5 of 6

**11. Rule 591-1-1-.14(2) requires each center building and vehicle to have a first aid kit.**

During an investigation, it was determined that no first aid kit was present on a 15 passenger van used to transport children on January 27, 2012.

Failure of center staff to ensure that a first aid kit was present on the vehicle placed children at risk of harm.

**12. Rule 591-1-1-.09 requires the director and employees to submit to a criminal records check prior to employment in the center.**

During an investigation, it was determined that a criminal records check was not on file for one staff person who was solely responsible for, and was alone with, children on January 26, 2012, when she transported them in her personal vehicle.

Failure of center staff to ensure that a criminal records check was on file for this staff person placed children at risk of harm.

**13. Rule 591-1-1-.32(6) requires that children be supervised at all times.**

During an on-site visit for an investigation on January 31, 2012, it was observed that children were not properly supervised during outdoor time. Two staff members were on the playground with 25 children ages one to three years old. One staff person was observed using her cell phone while the other staff person was observed sitting at a picnic table. Neither of the staff persons were engaged with, or were monitoring, the children as they played on equipment.

Failure of the center staff to provide adequate supervision placed the children at risk of harm. This rule was previously cited on October 25, 2011, and June 24, 2011.

**14. Rule 591-1-1-.32(2) allows the combining of children in mixed-age groups but requires that the staff to child ratio be based on the ages of the youngest children if more than 20% of the children in the group belong to younger age grouping(s).**

During an on-site visit for an investigation on January 31, 2012, it was observed that staff to child ratios were not met on the morning of January 31, 2012, during outdoor time. A mixed age grouping of 25 children ages one to three years old was observed on the playground. The group required a ratio of 4:25. A ratio of 2:25 was observed. There were six (6) one-year-old children, ten (10) two-year-old children, and nine (9) three-year-old children present.

Failure of the center staff to maintain adequate ratios placed the children at risk of harm. This rule was previously cited on October 25, 2011, July 22, 2011, June 24, 2010, and April 16, 2010.

**15. Rule 591-1-1-.17(8)(c) requires staff to wash their hands with liquid soap and running water after handling bodily fluids, such as, but not limited to, mucus, saliva, vomit or blood.**

During an on-site visit for an investigation on January 31, 2012, it was observed that two staff person wiped the noses of multiple children without washing their hands between each child.

Failure of the center staff to properly wash their hands placed the children at risk of harm.

February 22, 2012

Mr. Okeke

Ms. Jefferson

Page 6 of 6

**16. Rule 591-1-1-.20(1) requires parental authorization for dispensing prescription or non-prescription medication.**

During an investigation, it was determined that parental authorization was not on file for one infant's Albuterol breathing treatment. The medication was given to the child on the morning of January 26, 2012. Additionally, center staff lacked training on how to administer the medication, or the dosage to be given.

Failure of the center staff to obtain parental authorization for medication could possibly place the children at risk of harm.

**17. Rule 591-1-1-.20(3) requires the center to maintain a record of medication dispensation.**

During an investigation, it was determined that the center did not document the dispensation of an Albuterol breathing treatment to an infant on the morning of January 26, 2012.

Failure of the center staff to document dispensation of medication placed the children at risk of harm.

**18. Rule 591-1-1-.37(c) requires the center to cooperate with a Department inspection or investigation. Failure to cooperate shall constitute good cause for the revocation of a license.**

The center did not cooperate with a Department investigation on January 31, 2012, when the center director stated she has never acted as a driver for the center. It was later determined that she acted as a driver on multiple occasions. Additionally, staff persons indicated that a 15 passenger van with the center's name on it is not used for transportation. Observations by a Department representative on January 27, 2012, revealed that this statement is false.

Failure of the center staff to cooperate with a Department investigation placed children at risk of harm.

**19. Rule 591-1-1-.08(p) requires that records of a child's daily arrival and departure for the twelve (12) preceding months be maintained.**

During an investigation, it was determined that eight children were not properly signed in on the morning of January 26, 2012, and that multiple children were not properly signed out on the morning of January 26, 2012, when they were transported to another location.

Failure of the center staff to ensure that each child was properly signed in and out placed children at risk of harm.

**20. Rule 591-1-1-.08 (a-f) requires the center to maintain a file for each child.**

During an investigation, it was determined that files were not maintained for eight children who were cared for at the center on January 26, 2012, and for four children who were cared for at the center on January 27, 2012.

Failure of the center staff to ensure that enrollment records were on file for each child placed children at risk of harm.

**21. Rule 591-1-1-.15(2) requires that a signed written feeding plan be maintained on file for all enrolled infants.**

During an investigation it was determined that a feeding plan was not on file for one infant who was cared for at the center on the morning of January 26, 2012.

Failure of the center staff to ensure that a written feeding plan was on file for all infants placed children at risk of harm.

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA



FILED  
OSAH

FEB 7 2012

TONYMAGI INVESTMENTS, LLC  
D/B/A TENDER KARE ACADEMY,

Petitioner,

v.

GEORGIA DEPARTMENT OF  
EARLY CARE AND LEARNING,

Respondent.

Docket No.:

OSAH-DECAL-CCLC-1221789-106-Langston

Agency Reference No.: 1221789

*Kevin Westray*  
Kevin Westray, Legal Assistant

**FINAL DECISION  
AND  
ORDER AFFIRMING EMERGENCY CLOSURE**

On February 1, 2012, the Georgia Department of Early Care and Learning (Department) issued a proposed Order for Intended Emergency Closure and a proposed Emergency Order for Placement of a Monitor regarding TONYMAGI Investments, LLC, D/B/A Tender Kare Academy (Petitioner), a child care learning center, located at 1100 Floyd Road, Columbus, Muscogee County, Georgia 31907. Thereafter, Petitioner submitted an appeal of the proposed Order for Intended Emergency Closure and proposed Emergency Order for Placement of a Monitor.

After having reviewed the evidence and having considered the live testimony in a hearing held in Columbus, Georgia on February 3, 2012, an oral Order was entered at the conclusion of the hearing affirming the Order for Intended Emergency Closure. For the above referenced matter, it is hereby ordered and adjudged that the following be entered:

**I. FINDINGS OF FACT**

1.  
Petitioner allowed an employee to operate a vehicle without a satisfactory annual safety check.
2.  
Petitioner allowed an employee to operate a vehicle with a container of antifreeze accessible to the children on the vehicle.
3.  
Petitioner allowed an employee to operate a vehicle with an empty fire extinguisher.
4.  
An employee of Petitioner operated a vehicle without properly securing the children in child passenger restraint systems in accordance with state and federal laws and regulations.
5.  
Petitioner allowed an employee to operate a vehicle while failing to maintain adequate staff to child ratios.

6.

Petitioner allowed an employee to operate a vehicle without proper documentary evidence that the employee has successfully completed biennial training program in CPR.

7.

An employee of Petitioner transported multiple children to an unapproved location from the center without proper parental authorization. Petitioner staff admitted to Department staff that the transportation of children from the center to another facility occurred on a routine basis.

8.

Petitioner allowed an employee to operate a vehicle(s) without the necessary passenger information of the children being transported.

9.

Petitioner allowed an employee to operate a vehicle(s) without the necessary medical information of the children being transported.

10.

An employee of Petitioner provided transportation without using a required transportation checklist, which is crucial in accounting for the loading and unloading at each destination of the children being transported.

11.

Petitioner improperly admitted children for care without first obtaining necessary enrollment records.

12.

An employee of Petitioner transported multiple children to an unapproved location from the center without proper parental authorization.

13.

Petitioner failed to maintain records that demonstrated multiple children's daily arrival and departure when the Petitioner improperly transported these children to an unapproved location from without proper parental authorization.

14.

The safety and welfare of children in Petitioner's care are in imminent danger.

## II. CONCLUSIONS OF LAW

1. Petitioner operates a child care learning center which is an early care and education program. See O.C.G.A. Section 20-1A-2(6).
2. Petitioner violated the following rules from Rule Chapter 591-1-1, The Rules for Child Care Learning Centers (Rules), Official Compilation Rules and Regulations for the State of Georgia:
  - a. Rule 591-1-1-.36(2)(a) Vehicle Safety – Transportation;
  - b. Rule 591-1-1-.36(2)(b) Vehicle Safety – Transportation;
  - c. Rule 591-1-1-.36(2)(c) Vehicle Safety – Transportation;
  - d. Rule 591-1-1-.36(2)(f)1. Vehicle Safety – Transportation;
  - e. Rule 591-1-1-.36(3)(b) Staffing Requirements for Transportation of Children - Transportation;
  - f. Rule 591-1-1-.36(3)(c) Staffing Requirements for Transportation of Children Transportation;
  - g. Rule 591-1-1-.36(5) Parental Authorization – Transportation;

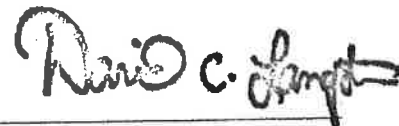
- h. Rule 591-1-1-.36(6)(a) Center and Passenger Information – Transportation;
  - i. Rule 591-1-1-.36(6)(b) Emergency Medical Information – Transportation;
  - j. Rule 591-1-1-.36(6)(c) Passenger Transportation Checklists – Transportation;
  - k. Rule 591-1-1-.04 Admission and Enrollment;
  - l. Rule 591-1-1-.23(f) Parental Authorization; and
  - m. Rule 591-1-1-.08(p) Arrival and Departure Records – Children’s Records.
3. Petitioner placed the health and safety and/or welfare of the children in imminent danger by violating the above referenced rules.
  4. Upon a finding that the children’s safety or welfare is in imminent danger, a child care learning center shall be closed for a period of not more than twenty-one (21) days. See O.C.G.A. Section 20-1A-13(c)(2)(3).
  5. The Administrative Law Judge may issue an immediate oral Order regarding the proposed closure of an early care and education program at the conclusion of the hearing. See O.C.G.A. Section 20-1A-13(i).
  6. Upon closure of an early care and education program, the center shall be required to immediately notify the parent and guardian of each child enrolled in the program of such closure. See O.C.G.A. Section 20-1A-13(2)(3).
  7. If the Department issues a revocation notice to the Petitioner during the twenty-one (21) day closure period, the Petitioner’s program shall remain closed until the appeal decision is issued. See O.C.G.A. Section 20-1A-13(c)(2)(3).
  8. The Order issued by OSAH in this matter is a Final Order. See O.C.G.A. Section 20-1A-13(c)(2).

**III. ORDER**

**IT IS HEREBY ORDERED THAT** the Department’s Order for Intended Emergency Closure is **AFFIRMED**. As stated at the conclusion of the hearing held on February 3, 2012, the Petitioner’s center shall be closed for a period of twenty-one (21) days, effective close of business February 3, 2012. The Petitioner shall remain closed through Friday February 24, 2012, unless the Department issues a Notice of Revocation within the twenty-one (21) day closure period. If such revocation notice is issued by Department, the Petitioner’s center shall remain closed until an appeal decision is issued.

**IT IS HEARBY ORDERD THAT** the Petitioner immediately notify all parents of children enrolled at the center of this emergency closure.

**SO ORDERED** this 7<sup>th</sup> day of February, 2012.



\_\_\_\_\_  
 DAVID C. LANGSTON  
 Administrative Law Judge