



North Carolina Department of Health and Human Services
Division of Child Development and Early Education

Pat McCrory
Governor

Aldona Z. Vos, M.D.
Ambassador (Ret.)
Secretary DHHS

Robert W. Kindsvatter
Director

[Redacted] County Environmental Health
[Redacted]

April 8, 2014

Dear Mr. [Redacted]:

The Division of Child Development has been contacted concerning a proposed child care facility. Due to the age, location, or condition of the building, the Division is requesting an investigation of the property to determine the presence of lead-based paint hazards or other lead poisoning hazards.

Potential operator: [Redacted]

Phone number: [Redacted]

Location of facility: [Redacted]

The potential operator is expecting your call and can be reached at the phone number listed above. If you have any questions, you may contact me at [Redacted]

Sincerely,

[Redacted]
Lead Child Care Consultant

www.ncdhhs.gov • www.ncchildcare.nc.gov
Tel 919-527-6335 • Fax 919-715-1012

Location: 820 South Boylan Avenue • Raleigh, NC 27603
Mailing Address: 2201 Mail Service Center • Raleigh, NC 27699-2201
An Equal Opportunity / Affirmative Action Employer



December 17, 2014

County Schools

CERTIFIED MAIL

Dear Mr. [REDACTED]:

Enclosed please find a **Notice of Administrative Action**. This action is taken by the Division of Child Development and Early Education against [REDACTED] **County Schools**, as operator of [REDACTED]. Please read the Notice carefully so that you understand all aspects of the administrative action. Instructions to appeal this administrative action are attached to this Notice.

Within thirty (30) days after this Notice of Administrative Action is received, you must notify all parents of currently enrolled children, in writing, that an administrative action has been issued, a requirement of Child Care Rule 10A NCAC 09 .2201(d). The written notice shall inform parents that the Notice of Administrative Action will be placed in a binder, for their review, at the child care facility and will specify the location of the binder. It shall also include the nature of the administrative action as specified in the Basis for Action. The date on which the written notice was given to all parents shall be documented. This Notice of Administrative Action must be maintained, **for a period of three (3) years after it is received**, in a binder, accessible to parents. This includes administrative actions that may be stayed pending appeal.

This agency remains available to assist you upon request. If you have questions about this matter or need further assistance, please contact Christine Carroll, Licensing Supervisor, at 252-373-3125.

Sincerely,
Lois Harrington, Eastern Regional Manager
Regulatory Services Section
LH/CC/lcd
Enclosures

North Carolina Department of Health and Human Services Division of Child Development and Early Education

December 17, 2014

NOTICE OF ADMINISTRATIVE ACTION

TYPE OF ACTION: WRITTEN WARNING

ISSUED TO: [REDACTED]

FACILITY: [REDACTED]

The Division of Child Development and Early Education in the Department of Health and Human Services hereby issue a **WRITTEN WARNING** to [REDACTED] County Schools, Operator of the above named center. Authority to take this action is provided by North Carolina General Statutes 110-98 and 110- 102.2(1) and Child Care Rule 10A NCAC 09 .2203. **Further noncompliance with child care requirements as related to this Notice may result in a more stringent administrative action, up to and including revocation of the license.**

The Corrective Action Plan included with the Written Warning is enclosed and is a part of this Notice. An unannounced visit will be made by a representative of the Division of Child Development to verify compliance with the Corrective Action Plan. Documentation to support compliance with the Corrective Action Plan is required. Unless otherwise noted, compliance with the Corrective Action Plan shall occur within **two (2) weeks** after this Notice is received. Failure to comply with the Corrective Action Plan could result in further administrative action, including the assessment of a Civil Penalty up to five hundred dollars (\$500.00) as authorized by Child Care Rule 10A NCAC 09 .2213(c)(2). **When required in the Corrective Action Plan, training will not be calculated as part of an employee's annual in-service training hours unless otherwise noted.** ID# 65000901 2014
Page 3 of 6

BASIS FOR ACTION

An Environmental Health Specialist from the [REDACTED] Environmental Health Department conducted an Environmental Lead Investigation [REDACTED] on October 21, 2014 and October 28, 2014. During the Investigation, lead hazards were identified on the interior and/or exterior surfaces of the child care facility. A copy of the Environmental Health Investigation, dated November 12, 2014, is enclosed for your reference.

The presence of lead-based paint or lead-bearing substances is a potential health hazard for children, and is a violation of Child Care Rule 10A NCAC 09 .0601(a), which requires that a safe indoor and outdoor environment be provided for the children in care. In order to ensure that the environment is safe for children, the lead hazards must be remediated as recommended and approved by the [REDACTED]

December 17, 2014

Lois Harrington, Eastern Regional Manager Date
Regulatory Services Section

CORRECTIVE ACTION PLAN

When required in the Corrective Action Plan, training will not be calculated as part of an employee's annual in-service training hours unless otherwise noted.

1. The child care operator shall maintain compliance **at all times** with all applicable child care requirements including, but not limited to, Child Care Rule 10A NCAC 09 .0601(a) regarding providing a safe indoor and outdoor environment for the children in care.
2. Within **two (2) weeks** after this Notice is received, [REDACTED], Administrator, shall submit a plan for remediating the lead hazards found on the interior and/or exterior surfaces of the child care facility to [REDACTED] County Environmental Health Department, [REDACTED] [REDACTED] will review the remediation plan to determine if it meets the standards deemed acceptable for remediation by the Department of Health and Human Services.
3. Within **three (3) days** after approval is received, [REDACTED] shall send a copy of the approved remediation plan to [REDACTED], Child Care Consultant, [REDACTED]
4. No later than **thirty (30) days** after the approval of the plans, [REDACTED] shall send [REDACTED] or written verification from [REDACTED] County Environmental Health Department indicating that the remediation of the potential lead hazards has been completed. If remediation cannot be completed by this date, Ms. Waddell shall [REDACTED] notify [REDACTED] immediately.
5. Within **three (3) days** after this Notice is received, [REDACTED] documentation outlining the daily measures being taken to control the lead dust. Until remediation of the lead hazards can be completed, every reasonable precaution shall be taken to assure that children do not have access to the area of the building where lead-bearing substances exist. shall immediately begin following interim measures to control the lead dust.

PROCEDURE FOR APPEAL

To appeal an Administrative Action, a request for a contested case hearing may be made in accordance with Chapter 150B, Article 3, and Chapter 110, Article 7 of the North Carolina General Statutes. A Petition for a contested case hearing must be filed with the Office of Administrative Hearings, in accordance with North Carolina General Statute 150B-23(a). In addition, a copy of the Petition and certificate of service must be mailed, delivered or faxed to the Registered Agent for the State agency named on the Petition as Respondent. To file a Petition with the Office of Administrative Hearings, please follow the directions below:

STEP 1 – REQUESTING THE FORM:

Contact the Office of Administrative Hearings (OAH) at (919) 431-3000. You may request that the Petition form be mailed or faxed to you or you can obtain the form on line at www.ncoah.com/.

STEP 2 – FILLING OUT THE FORM:

Once you receive the Petition and instruction sheet, read the instructions carefully and complete the top and bottom portions of the form.

NOTES: (1) Item (3) on the Petition (Respondent) is the Division of Child Development and Early Education - Department of Health and Human Services (the agency about which you are complaining).

(2) Item (11) under CERTIFICATE OF SERVICE is Emery Edwards Milliken, General Counsel and Registered Agent for the Department of Health and Human Services

FILING FEE:

The Office of Administrative Hearings (OAH) charges a filing fee of \$20.00 for each petition filed, except in Contested Cases where the amount in controversy is fifty thousand dollars (\$50,000) or greater. Payments must be in cash, money order, certified check, or check drawn on an attorney's trust or operating account. Money orders and checks must be made payable to OAH. A copy of the OAH requirements regarding filing fees is included on the reverse of this notice. Please contact OAH at (919) 431-3000 to obtain additional information regarding the amount of the filing fee and accepted forms of payment.

STEP 3 – SUBMITTING THE COPIES AND FILING FEE:

(1) The **ORIGINAL PLUS ONE COPY** of the Petition, filing fee and certificate of service must be received by the **Office of Administrative Hearings** within thirty (30) calendar days after mailing of this Notice.

(REFER TO OAH INSTRUCTION SHEET FOR MAILING AND PHYSICAL ADDRESSES)

(2) A copy of the completed Petition and certificate of service must also be mailed, delivered, or faxed to the Registered Agent of the State agency:

Ms. Emery Edwards Milliken

Department of Health and Human Services

Office of Legal Affairs

Mailing Address: 2005 Mail Service Center

Raleigh, NC 27699-2005

Physical Address: Adams Building

101 Blair Drive

Raleigh, NC 27603

Fax No. 919-715-4645

IMPORTANT: If a petition is not filed and the filing fee is not paid within the specified timeframe, the right to appeal may be lost. In addition, failure to properly serve the petition as described above may result in the dismissal of the appeal. If the right to appeal is lost or if the appeal is dismissed, the administrative action explained in this Notice will become effective.

INFORMAL PROCEDURES

In accordance with North Carolina General Statute 150B-22, it is the policy of this agency to try to settle any disputes between the agency and any other person through informal procedures. The Division of Child Development and Early Education is available at the operator's request for discussion or consultation that might resolve this matter. To arrange for an informal meeting, you must contact the Division of Child Development and Early Education at (919) 527-6500 or 1-800-859-0829. **Please note that the use of informal procedures does not extend the thirty (30) calendar days allowed to file for a contested case hearing as explained above.** Attachment/March 2014 2

REQUIREMENTS REGARDING PETITIONS AND FILING FEES

The North Carolina Rule regarding petitions and filing fees is included below. Please contact OAH at (919) 431-3000 to obtain additional information regarding contested case petitions, the amount of the filing fee and accepted forms of payment. If you have additional questions regarding these requirements, please contact your attorney.

26 NCAC 03 .0103

Commencement of Contested Case: Notice and Filing Fee, states in pertinent part that:

(a) A contested case in the Office of Administrative Hearings is commenced by the filing of a petition as required by G.S. 150B-23 and payment of the appropriate filing fee (if a fee is required by G.S. 150B-23.2).

(b) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested case, the chief hearings clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:

(1) Name of case and date of filing;

(2) Name, address, and telephone number of the administrative law judge; and

(3) A request that the party send within 30 days a copy of the document constituting the agency action that caused the filing of the petition.

(c) In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner shall pay a filing fee of one hundred twenty-five dollars (\$125.00):

(1) Contested cases challenging certificate of need filed pursuant to G.S. 131E-188;

(2) Contested cases challenging permit actions under G.S. 143-215.1, G.S. 143-215.10C, G.S. 143-215.15, and G.S. 143-215.108;

(3) Contested cases where the amount in controversy is fifty thousand dollars (\$50,000) or greater.

(d) In contested cases commenced by a person aggrieved which do not involve the causes of action listed in Paragraph (c) of this Rule, the petitioner shall pay a fee of twenty dollars (\$20.00).

(e) The filing fee shall be waived in a contested case in which the petition is filed in forma pauperis and supported by such proofs as are required in G.S. 1-110. A petitioner seeking to have the filing fee waived under this Paragraph shall make the request by filing the appropriate OAH form with the chief hearings clerk prior to filing the petition for a contested case.

(f) The filing fee shall be waived in a contested case involving a mandated federal cause of action.

(g) The method of payment shall be:

(1) cash;

(2) money order;

(3) certified check; or

(4) check drawn on an attorney's trust or operating account.