

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

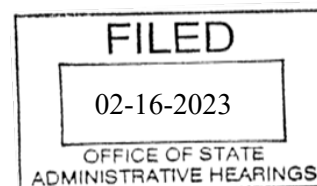
**TAMEIKA CASLIN,
Petitioner,**

v.

**GEORGIA DEPARTMENT OF EARLY
CARE AND LEARNING,
Respondent.**

**Docket No.: 2314579
2314579-OSAH-DECAL-CCLC-145-
Woodard**

Agency Reference No.: 2314579



FINAL DECISION

Respondent Department of Early Care and Learning (DECAL) denied Petitioner Tameika Caslin's application for licensure to operate a childcare learning facility, and Petitioner appealed. A hearing was held before the undersigned Administrative Law Judge on February 9, 2023 at the Office of State Administrative Hearings (OSAH) in Atlanta. Petitioner appeared and represented herself. Her mother, Josie Dickey, testified on her behalf. DECAL was represented by Daphne Parker, Attorney at Law, Legal Services Officer. Appearing as witnesses for Respondent were Shantreze Anderson, Consultant, DECAL Application Services Unit; Douglas Currier, Building and Zoning Director, Upson County; Tracy Wallace, Special Investigator; Office of State Inspector General; and Wakisha Newton, Manager, DECAL Application Services Unit.

For the reasons set forth below, the decision by DECAL to deny Petitioner's application for licensure is **AFFIRMED**.

1. Findings of Fact

1. On or about August 8, 2022, Petitioner submitted an Application for License to DECAL in which she sought approval to operate a childcare learning facility for children ages 6 weeks to 12 years old to be called "Caslin Care for Kids." The facility was to be located at 2450 Highway 19 North in Thomaston, Upson County, Georgia. Petitioner stated that she intended to operate the facility as a sole proprietorship, and listed her mailing address as 211 Plantation Trail, Griffin, Spalding County, Georgia. She provided her personal telephone number as the contact for both her residence and the child care facility. (Testimony of Petitioner; Respondent Exhibit 1).

2. The Application contained a checklist of documents that DECAL required from Petitioner, including a “[c]opy of Zoning Approval from appropriate agency with local jurisdiction attached, or a letter stating no zoning required:...” Zoning approval was to be within 12 months of application. Petitioner hand-wrote the dates “1/20/22” and “6/22/22” in the appropriate space on the checklist. (Respondent Exhibit 1).

3. Petitioner provided DECAL with a copy of the Warranty Deed to the Upson County property which showed she was the titled owner. She also provided a letter dated August 15, 2022, purportedly from Upson County Planning and Zoning. The letter is on what appears to be the letterhead for Upson County Building and Zoning Department, with a full-color county seal affixed. The body of the letter reads in its entirety as follows:

Ms. Caslin:

Upson County is in receipt on your August 15, 2022 request related to a proposed child daycare center at 2450 US Hwy 19 North Thomaston, GA 30286. The zoning on your property is R-2 (Single Family Residential). However, this district will allow this location a special use permit for a child daycare center as long as they adhere to the state’s standards.

Please contact with any additional questions or concerns.

Sincerely,

/s/d

Douglas G. Currier II, Director

Upson County Planning and Zoning

(Respondent Exhibits 1, 4; testimony of Douglas G. Currier; testimony of Petitioner).

4. DECAL processed Petitioner’s Application and attempted to verify the information she provided. When DECAL contacted Mr. Currier in September 2022 regarding the zoning for the proposed childcare center location, he was surprised to learn that Petitioner submitted a letter dated August 15, 2022, as the only letter he wrote regarding the zoning on her Upson County property was dated January 20, 2022. DECAL emailed a copy of the August 15, 2022 letter to Mr. Currier, and he responded with a copy of the January 20, 2022 version. The letterhead, Upson County seal, and Petitioner’s name and mailing address were the same in both letters, but the body of the two letters contained vastly different language. The January 20, 2022 letter states as follows:

Ms. Caslin:

Upson County is in receipt of your January 7, 2022 request related to a proposed daycare at 2450 US Hwy 19. The zoning on your property is R-2 (Single Family Residential-Medium Density; This district allows single family residences of a minimum of 1,008 sf. Home occupations are permitted principal uses in the R-2 districts, as long as they adhere to the County's home occupation standards, which are:

Home occupation: An occupation for gain or support conducted only by members of a family residing on the premises and entirely within the principal dwelling. The following required development standards must be met by all home occupations:

- 1. Only residents of the dwelling may be engaged in the home occupation.*
- 2. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essentially residential character of the building.*
- 3. No display of products may be visible from the street.*
- 4. Use of the building for this purpose may not exceed 25 percent of the principal building.*
- 5. No internal or external alterations inconsistent with the residential use of the building is permitted.*
- 6. No accessory buildings or outside storage may be used in connection with the home occupation except a private garage.*
- 7. Only vehicles designated and used primarily as passenger vehicles (this includes light pickup trucks) may be used in connection with the conduct of the home occupation.*

Please contact this office about paying your occupation tax prior to opening the business. A stand-alone day care facility is not a permitted principal use in the R-2. Thank you.

Sincerely,

/s/d

Douglas G. Currier II, Director

Upson County Planning and Zoning.

(Italicized language found in original). Mr. Currier confirmed that there is no "Special Use Permit" authorized by Upson County as stated in the altered letter of August 15, 2022, and that he would never use that phrase when drafting a letter or discussing a zoning matter. He recalled that the Petitioner asked him to change "3 or 4 words" in his original letter of January 20, 2022, but that the altered letter of August 15 contained many more changes than he anticipated. Mr. Currier did not recall receiving a copy of the August 15 letter from Petitioner, although he clearly remembered having several conversations with her and exchanging multiple emails regarding the zoning issues she faced in opening a new childcare center. (Respondent Exhibit 4; Testimony of Douglas Carrier, Shantreze Anderson, Wakisha Newton).

5. Based on the information provided by Mr. Currier, it appeared that an altered or forged document was presented by Petitioner with her Application. DECAL assigned this matter to Tracy Wallace, Special Investigator, for further inquiry. Mr. Wallace interviewed Petitioner for approximately one hour. During their conversation, Petitioner admitted that she changed the contents of Mr. Currier's January 20, 2022 letter, and that she submitted the altered letter bearing an August 15, 2022 date with her Application. Petitioner told Mr. Wallace that she had tried to contact Mr. Currier about several changes she wanted made to the original letter and sent her proposed changes to him via email. She admitted that Mr. Currier never approved the changes, however, and that she sent the August 15, 2022 letter to DECAL without his permission. (Respondent Exhibits 3,4,5; testimony of Tracy Wallace).

6. DECAL notified Petitioner in a letter dated October 6, 2022 that her Application was denied due to her submission of a falsified zoning letter. The authority cited for this action is O.C.G.A. § 20-1A-12, and Petitioner was advised of her right to appeal. Petitioner submitted her appeal and the case was forwarded to the Office of State Administrative Hearings for adjudication. (OSAH Form 1; Respondent Exhibit 5).

8. Petitioner testified that she received advice from a childcare center owner, Connie Underwood, as she prepared her Application for licensure. She also spoke with Antonia Mack, a DECAL employee, and she learned from Ms. Mack that her zoning letter could or should contain the phrase "Special Use" permit. She testified that she communicated her need for an amended zoning letter to Mr. Currier on many occasions, and he asked her to send a proposed change to him. Petitioner sent the original January 20, 2022 letter from her iPhone to her Android phone and used the Word application in the Android phone to redraft the letter. She testified that she did not believe she was submitting a forged or fraudulent document to DECAL, as she thought that Mr. Currier would approve of her changing the language in his original January 20, 2022 letter even though she did not receive his permission. Petitioner also testified that both the Spalding County and Upson County properties listed in her Application were her actual "Residence," and that she would spend the night and receive her mail in both locations. She wanted to use the Upson County location for

her proposed childcare center because it was closer to her mother's residence. DECAL was not aware that she had two locations that could be her legal residence, however, as this was not indicated on the Application nor did Petitioner tell any DECAL employee that she resided in homes in two counties. (Testimony of Petitioner; testimony of Wakisha Newton).

II. Conclusions of Law

1. DECAL is granted authority by the Georgia legislature to license, regulate, and discipline childcare entities within the State of Georgia. O.C.G.A. § 20-1A-1 et seq. There are two types of childcare entities defined at O.C.G.A. § 20-1A-2:

3. "Child care learning center" means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, seven or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.

...

8. "Family child care learning home" means a private residence operated by any person who receives therein for pay for supervision and care less than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six children under 13 years of age at one time.

Petitioner testified that the Upson County location for her child care facility was also her residence, which means her application could have been processed for a "Family child care learning home" rather than a "Child care learning center." The statutes cited herein do not differentiate between the two types of facilities for purposes of licensure and regulation by DECAL, and the Court finds the distinctions irrelevant.

2. O.C.G.A. § 20-1A-2(9) defines "License" as "the document issued by the department authorizing the operation of a family child care learning home or child care learning center." "Permit" is defined at O.C.G.A. § 20-1A-2(10) as "the temporary document issued by the

department authorizing a family child care learning home or child care learning center to operate without a license for a limited term to be determined by the department.”

2. According to O.C.G.A. § 20-1A-12:

...

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or holder of a license has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the early care and education program;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the program;

(3) Failed to comply with the licensing requirements of this state;

(4) Failed to pay the annual fee for licensure, registration, or commission of early care and education programs; or

(5) Failed to comply with any provisions of this Code section.

(c) When the department finds that any applicant or holder of a license has violated any provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the program, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;

(2) Administer a public reprimand;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Prohibit any applicant or holder of a license from allowing a person who previously was involved in the management or control, as defined by rule, of any program which has had its license revoked or denied within the past 12 months to be involved in the management or control of such program;

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$500.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing

licensing of any program;

(7) Impose a late fee of up to \$250.00 for failure of an early care and education program to pay the annual fee for licensure, registration, or commission within 30 days of due date as established by the department; or

(8) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into a program for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

(d) The department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of a program subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license

(Emphasis added by the Court).

3. When she applied for licensure as a Child Care Learning Center, Petitioner submitted a letter dated August 15, 2022, purportedly from the Upson County Building and Zoning office. This letter was a deliberate alteration of the original letter dated January 20, 2022 from Mr. Douglas Currier. Mr. Currier did not approve of this alteration and was unaware of the alteration until he was so advised by DECAL in September 2022. During her conversations and emails with Mr. Currier prior to the submission of her Application in August 2022, Petitioner informed him that she needed “3 or 4” modifications to his original letter. Instead of limited modifications, however, the altered letter contains almost none of the original language and uses a term, “Special Use Permit,” that is not used by Mr. Currier or others in his office. The evidence clearly shows that Petitioner “[k]nowingly made [a] false statement of material information in connection with the application for a license” and DECAL was authorized to deny her Application pursuant to O.C.G.A. § 20-1A-12(c)(1).

III. Disposition

It is the Final Decision of the administrative law judge that Respondent DECAL acted within its authority to deny Petitioner’s application for licensure as a Child Care Learning Center. Therefore, Respondent’s action is **AFFIRMED**.

SO ORDERED, this 16th day of February 2023.



M. Patrick Woodard
Administrative Law Judge

