

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW**

DEPARTMENT OF EDUCATION	*	DOCKET NO. 2019-9522-DOE-LIC
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	*	
IN THE MATTER OF	*	
	*	
A-Z KIDZZONE DAYCARE AND LEARNING CENTER	*	AGENCY TRACKING NO. 13082

DECISION AND ORDER

The Louisiana Department of Education Licensing Division revoked A-Z Kidzzone Daycare and Learning Center’s license to operate an early learning center in Louisiana for failing to follow the required rules, regulations, and minimum standards for licensing. A-Z Kidzzone Daycare and Learning Center requested an administrative hearing to challenge the Louisiana Department of Education Licensing Division’s adverse determination.

The Louisiana Department of Education Licensing Division’s adverse determination is **affirmed** because it proved that A-Z Kidzzone Daycare and Learning Center failed to adhere to the rules, regulations, and minimum standards for licensing of Louisiana’s early learning centers. The Louisiana Department of Education’s decision to revoke the license for A-Z Kidzzone Daycare and Learning Center was statutorily authorized, supported by evidence of a critical incident and multiple violations of licensing requirements, and was not arbitrary or capricious.

APPEARANCES

A hearing was conducted August 27, 2019, in Baton Rouge, Louisiana, before Administrative Law Judge Tameka Johnson. Present at the hearing were Troy Humphrey, counsel for the Department of Education, and Jim Raines, counsel for A-Z Kidzzone Daycare and Learning Center.

PROCEDURAL AUTHORITY

This adjudication is conducted in accordance with the Chapter 13-B of Title 49 of the Louisiana Revised Statutes, La. R.S. 49:991, *et seq.*, the Louisiana Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and Louisiana Administrative Code, Title 28, Part CLXI, that is also referenced as the Louisiana Board of Elementary and Secondary Education's Bulletin 137 – Louisiana Early Learning Center Licensing Regulations (BESE Bulletin 137), and promulgated in accordance with the Early Learning Center Licensing Act, La. R.S. 17:407.31 *et seq.*

STATEMENT OF THE CASE

On July 11, 2019, the Louisiana Department of Education Licensing Division (LDOE) issued a Notice of Revocation of License, advising A-Z Kidzzzone Daycare and Learning Center, (A-Z) of its decision to revoke A-Z's Type I Early Learning Center License #13082. A-Z requested an administrative hearing to challenge LDOE's adverse determination.

LDOE contended that the license revocation was appropriate because A-Z failed to take steps reasonably necessary to ensure the health, safety, and well-being of children in its care, as evidenced by a critical incident that occurred on June 19, 2019, and a violation of the licensing rules, regulations, and minimum standards stemming from that critical incident, which resulted in A-Z being issued eight deficiencies. At the hearing, LDOE offered testimony and evidence in support of its contentions. Natasha Williams, Licensing Specialist, and Andrea Burl, Program Manager, testified on behalf of LDOE. LDOE's evidence was admitted into the record.¹

A-Z challenged LDOE's adverse action, contending that the critical incident and resulting deficiencies did not result in harm to the children. A-Z urged the tribunal to reverse the revocation because the employee responsible for the critical incident was terminated and additional methods were put into place to ensure that the critical incident and resulting

¹ LDOE Exhibits 1-6.

deficiencies do not occur again. Darla Guy, A-Z Office Manager; Randal Brown, Owner/Director of A-Z; Raven Morgan, Parent; Christi Rankin, Parent; and John Parisey, Parent, testified on behalf of A-Z. A-Z offered documentary evidence that was admitted into the record.²

FINDINGS OF FACT

LDOE issued A-Z a Type I Early Learning Child Care Center license, #13082.³ On June 19, 2019, LDOE received a complaint of a child in A-Z's care who was left unattended in A-Z's van after a field trip. On June 19, 2019, A-Z took the children on a field trip to PARDS Water Park. A-Z did not have signed parental consent from any of the students' parents to take the children to the water park. Two of A-Z's employees, Darla Guy and Melissa Ficklin,⁴ drove the children to the water park in two vans owned by A-Z. There was one sheet containing the names of all the children in both vans. When they returned from the water park, both employees were responsible for ensuring that each child in their respective van disembarked the van and went inside the center.

After arriving back at the center, Ms. Ficklin failed to ensure that all of the children exited the van that she drove to the water park. Ms. Ficklin did not conduct a visual check of the van, nor did she conduct a face-to-name count of the children riding in her van. One of the children riding in the van driven by Ms. Ficklin did not disembark the van with the other children. Approximately 5-6 minutes after the children disembarked the van, EF⁵ knocked on the door of A-Z and informed Ms. Guy that "Ms. Melissa left her inside the van."⁶ Ms. Guy obtained a cool towel to place on EF's head. Ms. Guy gave EF something cool to drink and

² Appellant Exhibits 1-10.

³ LDOE Exhibit 1.

⁴ Ms. Ficklin was terminated as result of this incident.

⁵ The child's initials are used for confidentiality purposes.

⁶ Testimony of Darla Guy.

something to eat.⁷

After Ms. Guy determined that EF was not harmed, Ms. Guy contacted the owner/director, Randal Brown to inform him of the incident. Mr. Brown advised Ms. Guy that he would notify the parents of the incident. The mother was not immediately notified of the incident, but was informed about the incident later in the afternoon when she picked up EF from A-Z.

Mr. Brown notified LDOE and the Department of Children and Family Services, Child Welfare Division, of the incident on June 24, 2019, five days after the incident occurred. Neither Ms. Guy nor any of the remaining staff of A-Z notified LDOE or the Department of Children and Family Services, Child Welfare Division, of the incident within 24 hours of the time it occurred.

As a result of the June 19, 2019, incident, LDOE conducted a complaint inspection over the course of two days, on June 24, 2019, and July 1, 2019.⁸ Ms. Natasha Williams conducted the complaint inspection and determined that A-Z violated several regulations stemming from the critical incident involving EF being left unattended in A-Z's van for approximately 5-6 minutes.

On July 8, 2019, LDOE issued a Statement of Deficiencies citing A-Z for the following eight deficiencies: 1. Critical Incidents and Required Notification; 2. Daily Attendance Records; 3. Child Abuse and Neglect Policy; 4. Supervision; 5. Transportation –Supervision; 6. Parental Authorization-Field trip; 7. Field Trip Record; and 8. Field Trip Visual Vehicle Check.

LDOE did not produce any evidence that A-Z had prior deficiencies. The decision to revoke A-Z's license was based upon a one-time serious incident, which raised LDOE's concern for the safety and well-being of the children in A-Z's care.

CONCLUSIONS OF LAW

⁷ *Id.*

⁸ LDOE did not submit any documentation showing any deficiencies from the July 1, 2019 visit.

LDOE's decision to revoke A-Z's license is affirmed because it is within LDOE's statutory authority, supported by evidence of violations of the regulations and minimum standards, and the revocation was not arbitrary or capricious.

Louisiana Department of Education Has the Authority to Revoke the Early Learning Center License.

The Early Learning Center Licensing Act, La. R.S. 17:407.31, *et seq.*, provides for the licensing of child care facilities.⁹ The Early Learning Center Licensing Act (ELC Act) authorizes the State Board of Elementary Education and Secondary Education (BESE) to promulgate rules and regulations to implement a licensing program for early learning centers, and authorizes LDOE to administer a licensing program pursuant to the BESE rules and regulations.¹⁰

BESE implemented a program of licensing for early learning centers entitled "Bulletin 137 - Louisiana Early Learning Center Licensing Regulations," (BESE Bulletin 137) published in the Louisiana Administrative Code (LAC), to implement the provisions of the ELC Act.¹¹ The purpose of BESE Bulletin 137 is to set forth the rules and regulations necessary to implement and establish statewide minimum standards for the health, safety, and well-being of children in early learning centers, to ensure the maintenance of the standards and regulate conditions in early learning centers through a program of licensing administered by LDOE.¹²

All early learning centers in Louisiana must be licensed and operate in accordance with the licensing laws, regulations, and minimal standards for the health, safety, and well-being of the children enrolled in the early learning center.¹³

La. R.S. 17:407.44 authorizes LDOE to deny, revoke, or refuse to renew a license for an

⁹ La. R.S. 17:407.31, *et seq.*, transferring the licensing authority from the DCFS to LDOE on October 1, 2014.

¹⁰ LAC 28: Part CLXI.

¹¹ In accordance with La. R.S. 17:407.31, *et seq.*

¹² LAC 28:CLXI.101.

¹³ La. R.S. 17:407.31, *et seq.*; LAC 28:CLXI.101, *et seq.*

early learning center if the center fails to comply with *any* provisions of the ELC Act and/or BESE Bulletin 137.¹⁴

Under BESE Bulletin 137, LDOE is authorized to revoke an early learning center's license based on the following: the early learning center's violation of any provision of R.S. 17:407.31 *et seq.*; the early learning center's failure to take steps or actions reasonably necessary to ensure the health, safety, and well-being of children in its care; the early learning center's violation of any provisions of the licensing laws, rules, or minimum standards promulgated in BESE Bulletin 137; or the early learning center's history of non-compliance.¹⁵

LDOE had the authority to revoke A-Z's license on the basis that the center failed to: comply with the ELC act; ensure the health, safety, and well-being of children in its care; and comply with BESE Bulletin 137.

LDOE's Revocation Decision is Supported by Evidence of A-Z's Violation of the Licensing Regulations

In its July 11, 2019, Notice of Revocation, LDOE stated the basis for the revocation was A-Z's critical incident and its failure to comply with the licensing laws, rules, regulations, and minimum standards to ensure the health, safety, and well-being of children in its care.

The following eight deficiencies issued to A-Z during the complaint inspection were sufficient to show that A-Z failed to comply with the ELC act, BESE Bulletin 137, and failed to ensure the health, safety, and well-being of children in its care.

1. **§1103.A-D Critical Incidents and Required Notifications**¹⁶

A. An early learning center shall make immediate notification to emergency personnel, law enforcement as applicable, and other appropriate agencies for the following types of critical incidents involving child in care:

1. death;
2. serious injury or illness that required medical attention;
3. reportable infectious diseases and conditions listed in LAC 51.II.105;

¹⁴ La. R.S. 17:404.44.

¹⁵ LAC 28:CLXI.1301.A.9.

¹⁶ LAC 28:CLXI.1103.A-D.

4. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. The parent shall be contacted immediately following any immediate notifications made under Subsection A.

C. The department and other appropriate agencies shall be notified via email within 24 hours of the incident.

D. The department shall be notified by written report within 24 hours of the incident or the next business day. This written notification shall be made on the Licensing Division's Critical Incidents Report Form and shall contain all information requested on the form.

During the complaint inspection, A-Z was issued a deficiency for violating this regulation. Ms. Flickin left EF in A-Z's van unattended for approximately 5-6 minutes. This is considered a critical incident because it is a significant event relating to the health, safety and well-being of EF as defined in the above regulation.

A-Z failed to notify the Department of Children and Family Services, Child Welfare division, and LDOE of the critical incident within 24 hours of EF being left in A-Z's van unattended, which is also in direct violation of the above regulation. A-Z did not initiate the reporting process to LDOE and the Department of Children and Family Services, Child Welfare division, until five days later on June 24, 2019, the date of the complaint inspection.

A-Z also did not immediately report the incident to EF's parents. EF's mother was advised of the incident later in the afternoon after she picked up EF from center at which time she contacted Mr. Brown to determine how EF was left in the van unattended.

Mr. Brown admitted that he did not immediately contact EF's mother because he was dealing with his own mother who was in hospice care at the time the incident occurred.¹⁷ Mr. Brown also indicated that he wanted to do a thorough investigation into the incident before

¹⁷ Testimony of Randal Brown.

speaking with the parents. Mr. Brown's reasoning does not negate his responsibility to immediately inform EF's parents of the incident. Informing EF's mother of the incident at the end of the day does not constitute immediate notification. LDOE proved that A-Z violated this regulation on June 19, 2019.

2. **§1507.A - Daily Attendance Records – Children**¹⁸

A. Children. A daily attendance record for children shall be maintained that shall:

1. include the child's first name, arrival and departure times, and first and last name of person or entity to whom the child is released;
2. accurately reflect children on the center premises at any given time, and
3. be used to sign in and out if a child leaves and returns to the center during the day.

A-Z was issued a deficiency for violating this regulation during Ms. Williams' complaint inspection. Ms. Williams observed that the attendance log for 9 out of the 57 children present on the day of the inspection, did not include the first and last name of the person or entity to whom the children were released as required by the above regulation. LDOE proved A-Z violated this regulation on June 14, 2019.

3. **§1509.A.1 (a) – Child Abuse and Neglect Policy**¹⁹

A. An early learning center shall establish in writing, prominently post or show parent's signature of receipt, and implement the following policies and minimum provisions of such policies:

1. child abuse and neglect policy
 - a. as mandated reporters, all staff and owners shall report any suspected abuse or neglect of a child to the Louisiana Child Protection Statewide Hotline (855) 4LA-KIDS [(855) 452-5437].

A-Z was issued a deficiency for violating this regulation during the complaint inspection on June 24, 2019. Ms. Williams determined that the staff failed to report to the Louisiana Child Protection Statewide Hotline that EF was left unattended in A-Z's van for approximately 5-6 minutes upon returning to the center after a field trip to the water park. Mr. Brown reported the incident to the Department of Children and Family Services, Child Welfare division, on June 24,

¹⁸LAC 28:CLXI.1507.A.

¹⁹LAC 28:CLXI.1509.A.1.

2019, five days after the incident occurred, and during the complaint inspection. Mr. Brown admitted that he did not report the incident in the time frame required by the above regulation.

LDOE proved A-Z violated this regulation.

4. **§1713.A-C – Supervision**²⁰
 - A. Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.
 - B. Children shall not be left alone in any room, (except the restroom as indicated in Subsection G of this Section or when being provided services by therapeutic professionals, as defined in §103), outdoors, or in vehicles, even momentarily, without staff present.
 - C. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

A-Z was issued a deficiency for violating this regulation during the complaint investigation on June 24, 2019. Ms. Williams' investigation revealed that on June 19, 2019, EF was not supervised at all times because she was left inside of A-Z's van for approximately 5-6 minutes upon her return to the center after a field trip to the water park. Ms. Williams also determined that EF was unsupervised when she exited the van alone and knocked on A-Z's door in order to gain access to the center. A-Z's office manager, Ms. Darla Guy, confirmed through her testimony that EF was alone without staff supervision when she knocked on A-Z's door to gain access to the center. LDOE proved that A-Z violated this regulation on June 19, 2019.

5. **§2101.A.4 – Transportation -Supervision**²¹
 - A. These general transportation rules apply to all transportation, whether for field trips or daily transportation.
 4. Children shall never be left unattended in a vehicle.

A-Z was issued a deficiency during the complaint inspection for violating this regulation. The testimony from Ms. Guy and Mr. Brown substantiated the fact that on June 19, 2019, Ms. Ficklin left EF unattended for approximately 5-6 minutes in A-Z's van upon her return to the

²⁰ LAC 28:CLXI.1713.A.-C.

²¹ LAC 28:CLXI.2101.A.4.

center after a field trip to the water park. LDOE proved A-Z violated this regulation.

6. **§2105.A. – Parental Authorization - Field Trip**²²

A. The center shall obtain and maintain a signed parental authorization for each field trip.

A-Z was issued a deficiency during the complaint inspection for violating this regulation on June 19, 2019. Ms. Williams' investigation revealed that the staff of A-Z took the children on a field trip on June 19, 2019, and there were no signed parental authorizations for any of the students who attended the field trip. Mr. Brown and Ms. Guy testified that the parents were aware and notified of the field trip because it was on A-Z's monthly calendar. The regulation requires more than notice to the parent. The regulation requires A-Z to maintain signed authorizations from the parents, which they did not have. LDOE proved A-Z violated this regulation.

7. **§2105.E. – Field Trip -Record**²³

E. A written record for each field trip shall be maintained and shall include the following:

1. date, destination(s) and method of transportation;
2. names of all the children being transported in each vehicle;
3. names of the driver, staff members and other adults being transported in each vehicle;
4. names of other adults who joined the field trip at the destination(s) to assist with supervision of children; and
5. the presence of each child each time the children enter or exit the vehicle.

A-Z was issued a deficiency during the complaint inspection for violating this regulation on June 19, 2019. Ms. Williams' investigation revealed that two vans transported the children to the water park for a field trip. One van was driven by Ms. Ficklin and the other van was driven by Ms. Guy. The faculty was required to have a record specifically showing which child was riding in which particular van. Instead, the faculty had a field trip record containing all the names of the children, but not delineating which child rode in which van. The field trip record

²² LAC 28:CLXI.2105.A.

²³ LAC 28:CLXI.2105.E.

violated this regulation because the regulation requires a written record containing the names of the children being transported in each van. Mr. Brown and Ms. Guy testified that the center currently has two separate records, one for each van to ensure compliance with this regulation. A-Z's subsequent attempt to comply with the regulation, does not negate the violation. LDOE proved A-Z violated this regulation.

8. **§2107.B.1-3 – Field Trip Visual Vehicle Check**²⁴

- B. For field trips, each vehicle shall have a visual passenger check and a face-to-name count conducted at all of the following times:
1. prior to leaving center for destination;
 2. upon arrival at and prior to departure from each destination; and
 3. upon return to center.

A-Z was issued a deficiency during the complaint inspection for violating this regulation on June 19, 2019. Ms. Williams' investigation revealed that when the staff returned to the center from the water park, a visual passenger check and a face-to-name count was not conducted as required by the above regulation because EF was left unattended in A-Z's van for approximately 5-6 minutes. Ms. Guy testified that she did not conduct a face-to-name count for the children in the vehicle driven by Ms. Ficklin and that it was Ms. Ficklin's responsibility to conduct the visual vehicle check of the van she was driving. LDOE proved A-Z violated this regulation.

CONCLUSION

The evidence substantiates A-Z failed to meet the minimum standards of these regulations. A-Z's violation of the regulations posed a threat to the health, safety, and well-being of the children. The deficiencies resulting from the violations support the revocation action taken by LDOE.

Arbitrary and Capricious Review

The appropriateness of LDOE's administrative action is determined by reviewing whether the agency's decision is arbitrary or capricious. Deference is given to a state agency,

²⁴ LAC 28:CLXI.2107.B.1-3.

and its interpretations should stand, when its actions are pursuant to its authority, consistent with its regulations and rules, and are not arbitrary or capricious.²⁵ An agency's proceedings and decisions are presumed to be legitimate and correct due to the latitude the agency is afforded to perform the functions delegated to it under the law.²⁶ Latitude must be allowed to public agencies to perform functions delegated to them under law, and courts should not intervene unless such conduct is clearly arbitrary.²⁷ The burden is on the Appellant to demonstrate grounds for reversal or modification based on a showing that the decision is arbitrary and capricious.²⁸

A-Z argued that LDOE's decision to revoke its license was arbitrary and capricious. To substantiate its argument, A-Z presented the names of other centers that were issued different violations, but whose license was not revoked. Counsel for A-Z made reference to several other centers where a child was unattended, but the center's license was not revoked. Therefore, counsel maintained that LDOE's decision to revoke A-Z, but not to revoke the other centers proved that LDOE's decision was arbitrary and capricious. Counsel's argument is rejected. This tribunal is not aware of the circumstances surrounding LDOE's decision as it relates to the other centers. Additionally, the history or deficiencies of other centers that are not a party to this proceeding, is irrelevant.

A-Z did not prove grounds for reversal as it failed to show LDOE's decision was inconsistent with its regulations and rules. LDOE is authorized under the ELC Act and BESE Bulletin 137 to revoke a license of an early learning center if the center fails to comply with any

²⁵ *St. Martin v. La. Dep't of Revenue*, 2008-1403, 2009 WL 838598 (La. App. 1 Cir. Mar. 27, 2009) (citing *Hill v. Dept. of Health and Human Res.*, 457 So. 2d 781, 785 (La. App. 1st Cir. 1984); *Vessier v. Dept. of Health and Hosp.*, 2010-0847, 2010 WL 4273100 (La. App. 1 Cir. Oct. 29, 2010). *In the Matter of Recovery I, Inc.*, 93-0441, p.6 (La. App. 1 Cir. 4/8/94) 635 So. 2d 690, 696, writ denied, 94-1232 (La. 7/1/94) 639 So. 2d. 1169.

²⁶ *Holladay v. La. State Bd. of Med. Exam'rs*, 96-1740 (La. App. 4 Cir. 2/19/97), 689 So. 2d 718, writ denied, 97-0730 (La. 5/1/97) 693 So. 2d. 740.

²⁷ *Mayeaux's Food and Sporting Goods, Inc. v. State of La., Dep't of Health and Human Resources*, 470 So. 2d 469 (La. App. 1st Cir.1985).

²⁸ *Id.*

provisions of the ELC Act and the BESE licensing regulations.²⁹ Further, A-Z did not prove grounds for reversal because it did not show that LDOE’s action to revoke A-Z license was arbitrary or capricious.

The term “arbitrary” was defined by the Louisiana Supreme Court in the case of *Reed v. State Farm Mutual. Auto. Ins. Co.* as “...an arbitrary act is an act based on random choice or personal whim, rather than any reason or system...”³⁰

The Supreme Court defined the term “capricious” in the case of *Coliseum Square Ass'n v. City of New Orleans* as “Generally, capriciously has been defined as...when the conclusion is announced with no substantial evidence to support it...”³¹

A-Z did not have evidence of LDOE’s failure to revoke a license of a center where the facts are the exact same as the case before this tribunal. LDOE’s decision was not made on a whim; a committee of LDOE representatives charged with the duty to enforce the regulations promulgated to ensure the health, safety, and well-being of children in care, carefully considered the facts surrounding the violations.

The decision was premised on LDOE’s regulations that require centers to meet all regulations at all times to maintain its license, and there was no evidence showing the decision to revoke was arbitrary or capricious.

LDOE’s decision to revoke A-Z’s early learning center license was based on A-Z’s failure to ensure the health, safety and well-being of children in its care as evidenced by the eight violations of the licensing rules and regulations cited in the statement of deficiencies from the complaint visits on June 24, 2019, and July 1, 2019. LDOE’s conclusion that A-Z was non-compliant with the licensing regulations is not contrary to the substantiated competent evidence.

²⁹ La. R.S. 17:404.44.

³⁰ 2003-0107 (La. 10/21/03), 857 So. 2d 1012, 1020.

³¹ 544 So. 2d 351, 360 (La. 1989).

LDOE's revocation of A-Z's license is supported and sustainable by a preponderance of the evidence.

A-Z argued that the deficiencies did not warrant revocation of A-Z's license because there was no harm to any of the children in A-Z's care. A-Z's argument is rejected. LDOE's revocation was not based on the fact that a child was harmed. It was based on A-Z's failure to take steps or actions reasonable necessary to ensure the health, safety, and well-being of children in its care as evidenced by its violations of the licensing rules, and regulations.

Mr. Brown testified that he should not be punished for an employee's actions and that he terminated the employee responsible for leaving EF unattended in the van. Although Mr. Brown did not commit the act, as the director/owner of the center, he is ultimately responsible for the safety and well-being of the children. Mr. Brown further testified that he spent money to improve upon the alarm system he already had in place to ensure that this does not happen again. Mr. Brown's old alarm system required the driver to walk to the back of the van to disarm the alarm the same as the new one; however, the old alarm could be disarmed by the driver prior to starting the van, which is what occurred with the current critical incident.

The improved system is an ignition controlled alarm system which automatically arms when the van is started. Once the van is turned off, the alarm sounds, which requires the driver to walk to the back of the van to disarm the alarm prompting a visual check of all to ensure all of the children have exited the van. While Mr. Brown's improvements are commendable, they do not delete or erase the occurrence of the critical incident and the violations stemming from the critical incident.

A few of the parents of the children enrolled in A-Z daycare also testified that A-Z is a great center, the staff is trust-worthy, and that closing the center would create a huge imposition. While the parents' testimony was credible, it had no bearing on whether A-Z violated the rules

and regulations of early learning centers. The tribunal is responsible for determining: whether a violation of the rules and regulations occurred; whether the action taken by LDOE was sufficient; and whether A-Z showed that the action taken was arbitrary or capricious. The tribunal is bound to apply the regulations as they are written.

A-Z argued that Mr. Brown is the owner of a second daycare and that daycare's license was not revoked. Counsel maintained that the fact that the second daycare license's was not revoked indicates that Mr. Brown does in fact take steps to reasonably ensure the health, safety, and well-being of the children. Ms. Burl testified that LDOE could have revoked the license for the second daycare as well; however, LDOE reviewed the second daycare's history for twenty-four months and determined that it had been in compliance with the laws and regulations. Therefore, the second day care license was not revoked. The fact that Mr. Brown owns two daycares but LDOE only revoked the license for the one where the critical incident occurred, lends credence to LDOE's decision to revoke A-Z was not arbitrary or capricious. The decision was premised on LDOE's regulations that require centers to meet all regulations at all times to maintain its license.

LDOE's decision to revoke A-Z's license was within its authority, supported by evidence of a critical incident that posed a threat to the health, safety, and well-being of the children, and was not arbitrary or capricious. Considering the law and evidence substantiating A-Z's violations of the licensing regulations for early learning centers, and absent any showing of an arbitrary or capricious determination, LDOE's action to revoke A-Z's license is affirmed.

ORDER

IT IS ORDERED that the Louisiana Department of Education Licensing Division's decision to revoke A-Z Kidzzone Daycare and Learning Center's Type I Louisiana Early Learning Center's License #13082 is **AFFIRMED**.

Rendered and signed on September 11, 2019, in Baton Rouge, Louisiana.



Tameka Johnson
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Wednesday, September 11, 2019, I have sent a copy of this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law

Please be advised that consistent with the parameters described by La. R.S. 49:959, you may be entitled to a rehearing or reconsideration of this decision. Requests for a rehearing or reconsideration must be received by the Division of Administrative Law within 10 business days of the date of this transmission. You may fax your request to (225)342-1812 or email it to OALprocessing@adminlaw.state.la.us. You may also be entitled to judicial review of this decision within certain time limits. To determine your rights to review, you should act promptly and seek legal advice.