



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

**In the Matter Of:**

**Stonehenge Christian Academy  
Ms. Phyllis Williams, Owner/Director  
4284 Winchester Road  
Memphis, Tennessee 38118**

**ORDER ASSESSING CIVIL PENALTIES**

Pursuant to Tennessee Code Annotated § 71-3-509(c) and Rule 1240-4-5-.04(3) of the Tennessee Department of Human Services, and other Rules as cited herein, this Order assesses civil penalties for violations of licensing regulations in the total amount of **One Hundred Fifty Dollars (\$150.00)** against Stonehenge Christian Academy, a licensed "child care agency," as defined by Tenn. Code Ann. §§ 71-3-501(4) and a "child care center" as defined in the Rules of the Department of Human Services, at 1240-4-3-.02(11). Three (3) civil penalties for minor violations in the amount of fifty dollars (\$50.00) each are assessed against Stonehenge Christian Academy.

**A. DEPARTMENT'S AUTHORITY TO ASSESS CIVIL PENALTIES AND FACTORS TO BE CONSIDERED IN ASSESSING CIVIL PENALTIES:**

**Authority:**

The following law sets out the authority of the Tennessee Department of Human Services (the "Department") to assess civil penalties:

**Tenn. Code Ann. § 71-3-509(c)(1)**

**If the department determines that there exists any violation with respect to any person or entity required to be licensed pursuant to this part, the department may assess a civil**

under reasonably foreseeable circumstances, that would prevent or would have prevented injury, harm, or the threat of injury or harm, to any child in care.

- (D) The quality of the methods of care and instruction provided for the children;
- (E) The suitability of the facilities provided for the care of the children; and
- (F) The adequacy of the methods of administration and the management of the child care agency, the agency's personnel policies, and the financing of the agency.

The following Rule of the Department provides for the imposition of civil penalties when child care facilities are found to be in violation of child care rules:

**1240-4-5-.04(3) Civil Penalties.**

**(a) General Provisions**

1. If the Department determines that there exists any violation with respect to any person or entity required to be licensed pursuant to Tenn. Code Ann. §§ 71-3-501 et seq., the Department may assess a civil penalty against such person or entity for each separate violation of a statute, rule or order pertaining to such person or entity in an amount ranging from Fifty Dollars (\$50.00) for minor violations up to a maximum of One Thousand Dollars (\$1,000.00) for major violations or violations resulting in death or injury to a child as defined in the rules of the Department. Each day of continued violation constitutes a separate violation.

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**(b) Civil Penalties Schedule**

**1. Major Violations.**

- (i) For any violations of any licensing laws or regulations that, due to negligence or intentional disregard of licensing law or regulations, results in serious injury to, or death of, a child, the Department may assess a civil penalty in a range of Seven Hundred Fifty Dollars (\$750.00) up to One Thousand Dollars (\$1,000.00). The Department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of negligence or intentional disregard of the licensing regulations. Consideration of the licensee's history of prior violations

the agency, or its staff substitutes or other persons permitted access to the children, or failure to prevent exposure of children in the agency's care to firearms which are under the control of the agency, or its staff, substitutes or other persons who have been permitted by the agency to have access to the children;

- (iv) The existence of six (6) or more minor violations of any type in any period of three (3) or more months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of Two Hundred Dollars (\$200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of three (3) or more months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of Two Hundred Dollars (\$200.00) in addition to the penalty for each minor violation.

2. **Minor Violations.**

- (i) A minor violation shall be any rule violation not described as a major violation in part 1.
- (ii) Each minor violation may subject the licensee to a civil penalty of Fifty Dollars (\$50.00).

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**B CIRCUMSTANCES REGARDING VIOLATIONS:**

Stonehenge Christian Academy was issued a temporary license on October 19, 2010, which is effective until January 31, 2011. On October 29, 2010, shortly after the temporary license was issued, the Department received a complaint regarding background checks for employees at Stonehenge. The Department's Child Care Program Evaluator conducted an unannounced visit on November 8, 2010. During this unannounced visit all staff files were reviewed for compliance with the Department's applicable rules concerning staff background checks. The files of two of Stonehenge's staff did not contain the necessary clearance letter for those employees to be working at the agency. During this unannounced visit, both staff members in question were present at the agency. It was further determined that one of these two employees had not had the required background checks performed. These violations were discussed with the owner and director of the agency, Ms. Phyllis Williams. The two employees in question were instructed to leave the center until clearance letters were received from the Department. In

- (k) Verification of criminal background check results;
- (l) Verification of Vulnerable Persons Registry results;

*Compliance with the foregoing statutes and regulations requires that the agency keep the proper staff records on file for all its employees, including the results of any and all applicable background checks and the clearance letter issued by the Department.*

Pursuant to the rules cited above, a violation of the statutes and rules related to keeping staff records on file carries a penalty in the amount of fifty dollars (\$50.00). Stonehenge Christian Academy is hereby assessed a penalty in this amount.

This is the first civil penalty assessed against this agency.

**2. SECOND VIOLATION: FAILURE TO COMPLY WITH STAFF RECORDS REQUIREMENTS WITH RESPECT TO EMPLOYEE SHANA BURNETT**

During the visit to Stonehenge Christian Academy on November 8, 2010, the Department's Child Care Program Evaluator found that the agency did not have the required clearance letter on file for employee Shana Burnett, which would have allowed Shana Burnett to lawfully work at the agency.

A Put-On-Notice Letter outlining this violation was issued to the agency on November 8, 2010.

This failure to have staff records on file is in violation of Tennessee Code Annotated § 71-3-507(a) through (e), specifically including subsection 71-3-507(b)(3), which states:

**Tenn. Code Ann. § 71-3-507(b)(3):** The results of the inquiry to the TBI shall be documented in the records of the childcare agency for the person for whom the background check is sought....

In addition, this failure to have staff records on file is in violation of Rule 1240-04-03-.05 of the Rules of the Tennessee Department of Human Services:

**1240-04-03-.05 OWNERSHIP, ORGANIZATION, AND ADMINISTRATION.**

...

- (7) General Record Requirements.

employment with the department, shall have the fingerprint-based background review, including juvenile records available to the TBI, and the registry and perpetrator records and juvenile records reviews required by subdivision (a)(2)(A) completed as required by this section prior to assuming any role described in subdivision (a)(1) or prior to employment with the department....

Tenn. Code Ann. § 71-3-507(d): The childcare agency...shall not permit a person to assume any role described in subdivision (a)(1) prior to the completion of a review of the criminal history and juvenile records available to the TBI and the juvenile court, including the fingerprint-based background review, review of the department of health's vulnerable persons registry and the state's sex offender registry, and pursuant to § 71-3-515, a review of the department of children's services and the department of human services records of indicated perpetrators of abuse or gross neglect of children or adults, and, if determined necessary by the department, juvenile court records reviews. The reviews must demonstrate that the person is not subject to a criminal history or a juvenile history or a history on the registries or in the records of the department of children's services or the department of human services that would, as described in this part, disqualify or otherwise exclude the person from any role described in subdivision (a)(1).

Tenn. Code Ann. § 71-3-507(e)(1)(B)(i): Upon receipt from the department of the criminal and juvenile fingerprint-based background report or other information regarding the criminal, juvenile, vulnerable persons, sex offender or perpetrator records histories of a person about whom this information was obtained, the department shall notify the childcare agency and the person of the person's clearance to assume a position with the childcare agency or that the person must be excluded from positions or circumstances with the agency described in subdivision (a)(1) or from any access to children.

In addition, this failure to comply with the requirement that employees undergo background checks is in violation of Rule 1240-04-03-.07 of the Rules of the Tennessee Department of Human Services:

1240-04-03-.07 STAFF.

...

(9) **Criminal Background and Vulnerable Persons Registry Review Requirements.**

(a) **Individuals Requiring a Fingerprint Criminal Background Review and Abuse (Vulnerable Persons) Registry Check:**

3. Failure to have employees undergo background checks and failure to keep a record of those background checks on file demonstrates a lack of judgment by the agency.
4. Failure to have employees undergo background checks and failure to keep a record of those background checks on file demonstrate the agency's inadequate methods of administration and management of the child care agency.

Staff must undergo the required background checks and staff files must contain the proper legal clearance documentation prior to the employee beginning work for the agency. Management has the ultimate responsibility of assuring that individuals interacting with the children are properly screened to insure the safety of children under their supervision. Failure to comply with these statutes and rules puts children at risk and compromises their safety and needs being met. Because of the serious nature of these violations, the Department has decided to assess the penalties stated herein.

**D. FINAL DATE OF PENALTY:**

**Unless** appealed in writing to the Commissioner of the Department of Human Services, this civil penalty shall become final ten (10) days after the date this Order of Assessment is served. **The final date of the penalty will be ten (10) days after the date of service of the Order as stated in the Certificate of Service on the last page of this Order.**

**E. METHOD OF PENALTY:**

Payments should be made by cashiers check (no personal checks) or money order to the State of Tennessee. Payments should be mailed within thirty (30) days of receipt of this Order to The Department of Human Services, ATTN: Jim Williams, Fiscal Services, Citizens Plaza Bldg., 5<sup>th</sup> Floor, Nashville, Tennessee 37243.

**Unless timely appealed as set out in Section F below,** payment in full must be received by DHS within 30 days of the final date of the penalty as set out in Section D above.

**F. APPEAL RIGHTS:**

Pursuant to Tenn. Code Ann. §4-5-307, the Licensee/Agency is given the following notice:

within seven (7) days of the entry date of the order of the Child Care Agency Board of Review which upholds the assessment, unless the Board's order is stayed. The child care agency will be notified of the date of the hearing by additional notice of the hearing date from the Recording Secretary of the Board.

5. The agency has a right to be represented at the hearing by retained legal counsel.

Issued this 12<sup>th</sup> day of January, 2011.

Virginia T. Lodge  
Virginia T. Lodge  
Commissioner  
Department of Human Services

by: [Signature]  
Authorized Representative  
State of Tennessee  
Department of Human Services

**CERTIFICATE OF SERVICE**

This Order Assessing Civil Penalty against Stonehenge Christian Academy, 4284 Winchester Road, Memphis, Tennessee 38118 was served upon Ms. Phyllis Williams (Owner and Director) at Stonehenge Christian Academy, 4284 Winchester Road, Memphis, Tennessee 38118 by personal service by Bobby McKenney, an authorized representative of the Tennessee Department of Human Services, on January 12, 2011 by hand delivering to Ms. Phyllis Williams a true copy of the Order Assessing Civil Penalties.

Bobby McKenney  
Authorized Representative of the  
Tennessee Department of Human Services