



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

August 7, 2020

Kimberly Mulhern
733 Oak Street
Niles, MI 49120

RE: License #: DG110088758
Investigation #: 2020D0220011
Kimberly Sue Mulhern

Dear Ms. Mulhern:

I conducted a special investigation because the child care licensing division received a complaint against your facility that related to licensing rules or law. The allegations were related to the following:

R 400.1908 (1)	Capacity.
R 400.1910 (1)	Ratio of personnel to children.
R 400.1911 (1)	Care; supervision; children.
R 400.1913 (2)	Discipline; child handling.

The details of the allegations are in the attached report. To investigate the allegations, I completed onsite inspections on 06/25/2020 and 07/22/2020. I interviewed the person who made the complaint, licensee, child care staff members, and parents.

As a result of this investigation, I found the following violation(s):

722.113c	Smoking on premises of group child care home or family child care home...
R 400.1908 (1)	Capacity.
R 400.1910 (1)	Ratio of personnel to children.

I recommend no change to the current license status.

Due to the violations, you must send us a corrective action plan by 9/24/2020. You can use our [corrective action plan](#) form or create your own.

If you need help writing the corrective action plan, please contact me. If you do not send a corrective action plan, you may face disciplinary action. The corrective action plan must include the following:

- How compliance with each rule will be achieved.
- Who is directly responsible for implementing the corrective action for each violation.
- Specific time frames for each violation as to when the correction will be completed or implemented.
- How continuing compliance will be maintained once compliance is achieved.
- The signature of the responsible party and a date.

	Yes	No
A rule or law violation was found and a serious injury or death occurred.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A rule or law violation was found and abuse and/or neglect of a child occurred.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

This report and any related corrective action plans must be filed in your licensing notebook. This report and any related corrective action plans will be online for parents to review under the [Statewide Search for Licensed Child Care Centers and Homes](#).

Sincerely,



Amy Steger, Licensing Consultant
Child Care Licensing Division
322 E. Stockbridge Ave
Kalamazoo, MI 49001
(269) 568-2915

enclosure

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS
SPECIAL INVESTIGATION REPORT**

I. IDENTIFYING INFORMATION

License #:	DG110088758
Investigation #:	2020D0220011
Complaint Receipt Date:	06/25/2020
Investigation Initiation Date:	06/25/2020
Report Due Date:	08/24/2020
Licensee Name:	Kimberly Mulhern
Licensee Address:	733 Oak Street Niles, MI 49120
Licensee Telephone #:	(269) 262-0284
Administrator:	N/A
Licensee Designee:	N/A
Name of Facility:	Kimberly Sue Mulhern
Facility Address:	733 Oak Street Niles, MI 49120
Facility Telephone #:	(269) 262-0284
Original Issuance Date:	10/25/1999
License Status:	REGULAR
Effective Date:	02/10/2019
Expiration Date:	02/09/2021
Capacity:	12
Program Type:	CHILD CARE GROUP HOME (CAPACITY 7-12)

II. ALLEGATION(S)

	Violation Established?
There were more than 12 unrelated children present in the home on 6/22/2020.	Yes
The home was out of ratio on 6/22/2020.	Yes
Daniel Mulhern was observed picking up a child by one arm.	No
Kim Mulhern was observed yelling and screaming at children.	No
Additional Findings	Yes

III. METHODOLOGY

06/25/2020	Special Investigation Intake - 2020D0220011
06/25/2020	Special Investigation Initiated - On Site Onsite at approximately 3:00 PM. Interviewed licensee, Kim Mulhern and Child Care Staff Member, Vicki Brown.
07/22/2020	Contact - Telephone call received Allegations received from second reporting source.
07/22/2020	Inspection Completed On-site Onsite at approximately 2:15 PM. Interviewed licensee, Kim Mulhern, Child Care Staff Member, Vicki Brown, and Adult Household Member, Daniel Mulhern.
08/04/2020	Contact - Telephone call made Telephone contact with Child A and Child B's Grandmother and Child C, Child D, and Child E's Mother. Attempted contact with Child F's Mother and Child G and Child H's Mother.
08/06/2020	Exit Conference Telephone contact with Kim Mulhern.

ALLEGATION: There were more than 12 unrelated children present in the home on 6/22/2020. The home was out of ratio on 6/22/2020.

INVESTIGATION: I made an unannounced onsite inspection at the home on 06/25/2020 and made contact with licensee, Kim Mulhern. She was outside the home with Child Care Staff Member, Vicki Brown. There were children sitting on the deck and playing in the fenced outdoor play area. There was a total of 11 unrelated children and one Minor Household Member (MHM) present.

I advised Ms. Mulhern of the allegations. She stated that there have been times when she has had more than 12 unrelated children at her home at one time making her over capacity. I asked to review the attendance records for 06/22/2020. There were 14 unrelated children and one MHM under the age of 7 years present and counted in the ratio. Ms. Brown was present in the home from 9:00 AM until 5:00 PM according to attendance records.

Ms. Mulhern stated that she struggles to tell parents no when they want to drop their children off. She has asked for schedules, but the parents refuse to give her one. She feels bad for the children, so she always lets them come even if she is going to be over capacity and/or out of ratio.

I interviewed Ms. Brown. She stated that they are occasionally over capacity and ratio. She advised that Ms. Mulhern has a hard time telling parents no when they ask to drop the children off. Some of the parents do not follow a schedule and randomly drop their children off without telling them ahead of time.

Mrs. Mulhern advised that Daniel Mulhern was at work and she would have him call for an interview. I requested copies of child information cards and attendance records.

I received a telephone call from a second reporting source on 07/22/2020 with allegations that Ms. Mulhern is continuing to be over capacity and out of ratio and there are sometimes 17-19 children present at one time.

I made another unannounced onsite inspection on 07/22/2020. Mrs. Mulhern and Ms. Brown were providing care for 11 unrelated children at the time of the onsite. Mr. Mulhern was home and able to care for the MHM. I advised Mrs. Mulhern that a second reporting source had indicated that she continues to operate over capacity and out of ratio. Mrs. Mulhern stated that she has not been over since the last onsite inspection occurred. I asked to review the attendance records.

While Mrs. Mulhern was inside gathering records, I asked Ms. Brown how many children were present at one time today at the home. Before she had time to answer, a child sitting next to her stated that three children had already gone home for the day totaling 14 unrelated children and one MHM under 7 years. She named the children that went home. Ms. Brown corrected her and stated that only two

children had already gone home. There were still 11 unrelated children and one MHM present. So, the total for that day was 13 unrelated children and one MHM under 7 years.

I went inside the home to interview Mrs. Mulhern. I asked her again if she had been over capacity or out of ratio since the last onsite inspection. She insisted that she had not been out of compliance. I advised her that a child sitting outside with Ms. Brown had reported that three children had already gone home that day. Ms. Brown confirmed that there were two children who had gone home. Mrs. Mulhern provided the attendance records and I confirmed that 13 unrelated children had been signed in.

Mrs. Mulhern stated that she continues to allow children to be dropped off because she feels bad for them. The parents do not have anywhere else to take the children. I advised that she could not continue to operate over capacity or out of ratio as she is knowingly breaking child care licensing rules. She indicated that she would need to disenroll several children and would help their parents find new child care.

I interviewed Mr. Mulhern regarding the allegations. He stated that he is unsure of how many unrelated children are in care at a time. He is generally at work but is currently on medical leave. He returns to work on Monday. He advised that he is currently home to care for the MHM so that he does not have to count in the ratio temporarily.

I interviewed Ms. Brown regarding the allegations. She confirmed that Mrs. Mulhern does continue to be over capacity and out of ratio. She feels that it is stressful when there are too many children present. She will support Mrs. Mulhern in making sure that she remains compliant with licensing rules.

I requested copies of child information cards and attendance records.

I made telephone contact with Child A and Child B's Grandmother and Child C, Child D, and Child E's Mother on 08/04/2020. Neither had concerns regarding capacity or ratio. They did not know how many children were at the home at one time but did not think there were too many.

I attempted telephone contact with Child F's Mother and Child G and Child H's Mother. I have not made contact as of the writing of this report.

APPLICABLE RULE	
R 400.1908	Capacity.
	(1) The licensee shall ensure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the child care home is licensed, not more than 6 children for a

	family child care home and not more than 12 children for a group child care home.
ANALYSIS:	There were 14 unrelated children signed into the home on 06/22/2020. There were 13 unrelated children signed into the home on 07/22/2020.
CONCLUSION:	VIOLATION ESTABLISHED

APPLICABLE RULE	
R 400.1910	Ratio of personnel to children.
	<p>(1) The ratio of personnel to children present in the home at any 1 time must be not less than 1 member of the personnel to 6 children. The ratio must include all children in care who are not related to any personnel and any of the following children who are less than 6 years of age:</p> <ul style="list-style-type: none"> (a) Children of the licensee. (b) Children of a child care staff member or child care assistant. (c) Children related to any member of the household by blood, marriage, or adoption.
ANALYSIS:	There were 14 unrelated children and one Minor Household Member (MHM) present at the home with two child care staff members on 06/22/2020. There were 13 unrelated children present in the home with two child care staff members on 07/22/2020. Mr. Mulhern was caring for the MHM.
CONCLUSION:	VIOLATION ESTABLISHED

ALLEGATION: Daniel Mulhern was observed picking up a child by one arm.

INVESTIGATION: I interviewed Mrs. Mulhern on 06/25/2020 regarding the allegation and her husband's interactions with the child care children. She stated that he does not have much involvement as he is not a child care staff member. He generally wakes up in the morning and spends time on his computer until he goes to work. She indicated that he would help if the children approach him or she asks him too. She denied that he has ever picked a child up by one arm or inappropriately handled any children.

I interviewed Ms. Brown on 06/25/2020. She stated that she does not know of any situations where Mr. Mulhern has picked a child up by one arm. She indicated that he has helped her by picking her grandson up who attends the child care but it was not by one arm nor inappropriate in anyway. He is not a child care staff member and does not have much interaction with the children.

I interviewed Mr. Mulhern on 07/22/2020 regarding the allegations. He denied picking any child up ever by one arm. He recalled a time when there was a child swinging a bat outside and hit another child. He was standing near and put his arm around the child to prevent any further swinging and asked him to stop. He indicated that he has minimal interactions with the children and generally does not pick children up. He wakes up in the morning and spends time on his computer until he goes to work. He interacts with the children if they approach him or he is needed. He is at work for most of the time children are in care. He is currently home on medical leave and helps take care of their MHM.

I interviewed Child A and Child B's Grandmother and Child C, Child D, and Child E's Mother. Neither had any knowledge or reason to believe that Mr. Mulhern picked a child up by one arm. Both have been sending their children to Mrs. Mulhern's home for many years and have never had a concern regarding Mr. Mulhern or his interactions with children.

I attempted telephone contact with Child F's Mother and Child G and Child H's Mother. I have not made contact as of the writing of this report.

APPLICABLE RULE	
R 400.1911	Care; supervision; children.
	(1) A licensee shall ensure appropriate care and supervision of children at all times.
ANALYSIS:	There was appropriate care and supervision of children at the home. Daniel Mulhern did not pick up a child by one arm.
CONCLUSION:	VIOLATION NOT ESTABLISHED

ALLEGATION: Kim Mulhern was observed yelling and screaming at children.

INVESTIGATION: I interviewed Mrs. Mulhern regarding these allegations on 06/25/2020. She denied that she yells and screams at children. She says that she does have to be louder than they are sometimes to get them to stop fighting or sometimes she is loud so that they can hear her when they are being extremely loud. She uses appropriate discipline such as redirecting and removing them from

harmful or unwanted situations. She stated that she does have a loud voice but that she does not use it as a discipline technique.

I interviewed Ms. Brown regarding these allegations on 06/25/2020. She denied that Mrs. Mulhern yells and screams at children. She indicated that generally Mrs. Mulhern gets up and goes and talks to the children. There are situations where she raises her voice to get their attention. Ms. Brown advised that Mrs. Mulhern will “holler at her own son” but it is not in a mean or aggressive way.

I interviewed Mr. Mulhern regarding the allegations on 07/22/2020. He denied that Mrs. Mulhern yells and screams at children. He stated that she sometimes has to be louder than the children. She talks to them and redirects them as means of discipline.

I interviewed Child A and Child B’s Grandmother and Child C, Child D, and Child E’s Mother over the telephone on 08/04/2020. They both denied hearing Mrs. Mulhern yell and scream at children. Child A and Child B’s Grandmother stated that Mrs. Mulhern does have a loud voice, but it is not ever mean.

I attempted telephone contact with Child F’s Mother and Child G and Child H’s Mother. I have not made contact as of the writing of this report.

APPLICABLE RULE	
R 400.1913	Discipline; child handling.
	(2) Developmentally appropriate positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation must be used.
ANALYSIS:	Kim Mulhern does not yell and scream at children as a discipline technique.
CONCLUSION:	VIOLATION NOT ESTABLISHED

ADDITIONAL FINDINGS:

When I arrived at the home for the onsite inspection on 6/25/2020, Ms. Brown was lighting a cigarette directly outside of the fence to the outdoor play area. After the cigarette was lit, she walked towards the front of the home. I reminded Mrs. Mulhern and Ms. Brown that there was no smoking allowed on the premises during child care hours of operation.

APPLICABLE RULE	
MCL 722.113c	Smoking on premises of group child care home or family child care home during hours of operation prohibited; smoking during other hours; notice to parent or legal guardian.
	An individual shall not smoke on the premises of a group child care home or family child care home during the hours of operation of the group child care home or family child care home...
ANALYSIS:	Ms. Brown was smoking on the premises while child care was being provided.
CONCLUSION:	VIOLATION ESTABLISHED

IV. RECOMMENDATION

Upon receipt of an acceptable corrective action plan, I recommend no change in the status of this license.

Amy Steger

08/07/2020

Amy Steger
Licensing Consultant

Date

Approved By:

Yolanda Sims

08/07/2020

Yolanda Sims
Area Manager

Date