

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

SANDRA BERROA ABAD
Petitioner

Docket No. OC-25-0009

v.

Date: August 6, 2025

DEPARTMENT OF EARLY
EDUCATION AND CARE,
Respondent

Appearances:

For Petitioner: Sandra Berroa Abad, pro se

For Respondent: Fatima Islam, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF RECOMMENDED DECISION

The Department of Early Education and Care denied Sandra Berroa Abad’s application for a childcare license. Its decision was based on a 2015 incident of substantiated abuse in which Ms. Berroa physically disciplined her then 11-year-old son. However, new evidence presented at the hearing demonstrates that, while this incident was serious and severe, it was isolated. I recommend the Department allow her application for licensure.

INTRODUCTION

Pursuant to 102 Code Mass. Regs. § 1.08(2)(a) and 606 Code Mass. Regs. § 14.14(2), the Petitioner timely appeals a decision by the Department of Early Education and Care (“EEC” or “the Department”) denying her application for a family childcare license. On June 11, 2025, I conducted an in-person hearing. The Petitioner testified on her own behalf. The Department presented one witness, Unique Dodd, the background check reviewer who conducted the

Petitioner's discretionary review. I entered Petitioner's exhibits P1-P12 and the Department's exhibits D1-D9 into evidence. At my request, after the hearing, the Department sent Ms. Berroa's candidate statement which I now mark as exhibit D10 and enter into evidence.

FINDINGS OF FACT

1. Ms. Berroa applied for a family childcare license in 2024. (Dodd.)
2. When she applied, EEC began a background check. A background check looks at, among other things, any prior involvement with the Department of Children and Families ("DCF"). (Dodd.)
3. Some prior conduct is automatically or presumptively disqualifying. 606 Code of Mass. Regs. § 14.10(1) & (2). Other prior conduct may trigger a discretionary review process. *Id.* at § 14.10(6). (Dodd.)
4. As part of the Petitioner's background review, EEC found information that triggered its discretionary review process: a June 2015 incident with DCF. (Ex. D2; Dodd.)

June 2015 Incident

5. The June 2015 incident stemmed from discipline Ms. Berroa imposed on her son, who at the time was eleven years old. (Ex. D2.)
6. Back then, her son had become difficult to manage. Ms. Berroa was "pushed to her limits" and sought help from DCF and the court system without success. (Ex. D2.)
7. Her son had spent time in Department of Youth Services custody and had a history of hospitalizations for anger management and aggressive behavior. He was prescribed medication for depression, anger and sleep. He needed restraints at school. He tried biting and hitting school staff. (Ex. D2.)
8. Even his older brother described him as a "trouble maker who came home at 5am most

times.” (Ex. D2.)

9. On the night in question, Ms. Berroa’s son did not come home until 11:30 p.m., well past his 8:00 p.m. curfew. (Ex. D2.)
10. When he made it home, Ms. Berroa was upset. She hit him with a plastic stick and folded-up I-phone charger. It left several marks on his legs and arms. She also slapped him across the face. (Ex. D2.)
11. The child went to the police station himself; the police then transported him to the hospital for treatment. (Ex. D2.)
12. When interviewed, Ms. Berroa “seemed to realize what she did was wrong.” She also seemed exasperated with her son’s behavior to the point that she and her boyfriend thought he needed to be in state care. They did not object when DCF took him into custody. (Ex. D2.)
13. She said she “lost her mind” and was “afraid to lose the child to gang violence, drugs, or to anything related.” (Ex. D2.)
14. DCF opened an investigation in which it ultimately supported allegations of abuse. (Ex. D1.)

Discretionary Review Process

15. As part of her application, Ms. Berroa submitted two letters of support and a candidate statement. (Exs. D1, D3, D4, & D10.)
16. Once the application is complete, the EEC reviewer—here Ms. Dodd—conducts the review by considering a series of factors listed in 606 Code Mass. Regs. § 14.12(f):
 1. Time since the incident(s);
 2. Age of the candidate at the time of the incident(s);

3. Seriousness and specific circumstances surrounding the incident(s);
4. Relationship of the incident(s) to the ability of the candidate to care for children;
5. Number of criminal offenses or findings of abuse/neglect;
6. Dispositions of criminal offenses and findings of abuse/neglect;
7. Relevant evidence of rehabilitation or lack thereof; and
8. Other relevant information, including information submitted by the candidate.

(Ex. 1; Dodd.)

17. Ms. Dodd explained how she weighed the different factors. (Dodd.)
18. She thought the letters of support were largely unhelpful because they did not indicate the authors were aware of the 2015 incident. (Exs. D3 & D4; Dodd.)
19. She also thought the candidate statement was also unhelpful because Ms. Berroa did not take responsibility for her actions. (Ex. D10; Dodd.)
20. The most favorable factors Ms. Dodd found were that the incident occurred over nine years ago and that Ms. Berroa has no other DCF involvement outside the 2015 incident. Ms. Dodd also noted that Ms. Berroa has no criminal involvement whatsoever. (Dodd.)
21. On the other hand, Ms. Dodd thought the incident, while isolated, was extremely serious and severe, which weighed heavily against Ms. Berroa. (Dodd.)

Evidence at the hearing

22. Ms. Berroa testified at the hearing and provided some new information about the incident.
23. She had not used physical discipline before this incident.¹ (Berroa.)

¹ To be fair, the DCF report contains equivocal statements by her son saying that Ms. Berroa had, or had not, previously hit him when he misbehaved. His statements were very inconsistent, and his older brother denied he had ever been hit himself. (Ex. D2.) Given her son's age, other mental health problems at the time, and his brother's statement, her son does not appear to have been a reliable reporter, and I do not credit his statements. Rather, I credit Ms. Berroa's testimony about this.

24. She was teary-eyed while she testified and seemed truly remorseful. She felt bad for having harmed her son. (Berroa.)
25. DCF returned her son to her home a month or two after the incident. DCF remained involved in their lives for years. At no point did DCF ask or require her to take any parenting classes or other remedial steps. Rather, they worked with her to try to best help her son. (Berroa.)
26. Before this incident, her son was court-involved. That only picked up thereafter. Between 2015 and 2019 he had at least 12 different juvenile court cases for a variety of serious offenses, ranging from several assault and battery charges to at least one armed robbery charge. (Ex. P1-P12.)
27. Ms. Berroa confirmed that her son continued to misbehave throughout adolescence. When asked how she disciplined him after the incident, she affirmed that she never again used physical punishment. Instead, she tried to support her son as best she could. She used resources available to her, like DCF, to seek programs and support. (Berroa.)
28. The record corroborates this. For one, there are no other DCF reports. Given the fact that she estimated DCF remained involved with her and her son for years, one would expect DCF to document any further abuse (or neglect) if it were present. There were also no reports indicating abuse from any other entity—courts, police, probation officers, etc.
29. Ms. Berroa also said her son still lives with her, which would be unlikely if she and he had a strained relationship. (Berroa.)
30. Ms. Berroa has several other children she cared for, and now grandchildren she cares for. She does not use physical discipline with them and has never had any problems

with, for example, DCF. (Berroa.)

31. When asked how EEC could be sure she would not today physically discipline a child in her care, she explained that, among other things, there is a big difference between a child in her care and her own son. She admitted that her emotional attachment to her son and the desire for his well-being played a role in her overreaction in 2015. That situation was unique. (Berroa.)
32. She referred to her care of her other children and grandchildren. She added that she was previously a teacher and never physically disciplined any child. (Berroa.)

DISCUSSION

When an applicant for a childcare license has a potentially disqualifying background, EEC may conduct a discretionary review to determine whether to grant or deny the license. 606 Code Mass. Regs. § 14.10(6). That discretion is not unfettered. EEC's regulations define what factors a reviewer must consider. *Id.* at § 14.12(f). These regulations also state that “the candidate [for a childcare license must present] clear and convincing evidence demonstrating the candidate's suitability for licensure, employment or affiliation in light of the concern for children's safety.” *Id.* An agency is bound to adhere to its regulations. *Royce v. Commissioner of Correction*, 390 Mass. 425, 427 (1983). This means that EEC may not issue a license to a candidate with a potential disqualifying background if the candidate failed to present clear and convincing evidence of suitability. By the same token, if the candidate presented clear and convincing evidence of suitability, EEC must grant the license.

Supported allegations of abuse by DCF may form the basis for a valid discretionary denial of a license application. *See EEC v. Curran*, OC-24-0351, 2025 WL 509465 (Div. Admin. Law Apps. Feb. 7, 2025); *EEC v. Aguilar*, OC-23-0251, at *9, 2023 WL 9022704 (Div. Admin.

Law Apps. Dec. 21, 2023). Here, DCF's report is reliable evidence that the incident occurred as described. It provided an adequate basis for EEC to deny the Petitioner's application, especially since there was ample corroborating evidence. For one, Ms. Berroa admitted to the conduct both when it occurred and at the present hearing. The incident also directly relates to EEC's core mission of assuring the safety of children in the care of others.

That said, I may consider new evidence that emerges at a hearing, especially if it sheds light on a particular factor or provides context not apparent from the record before EEC. *See EEC v. Peralta*, OC-24-0353, 2025 WL 1148337 (Div. Admin. Law Apps. Apr. 9, 2025); *EEC v. Fournier*, OC-24-0508, 2025 WL 1092640 (Div. Admin. Law Apps. Apr. 1, 2025). EEC's main concern, understandably, is that Ms. Berroa cannot be trusted to safely care for children; should one misbehave, it is worried she would react the same way she reacted to her son in 2015. However, Ms. Berroa's testimony convincingly showed she would not.

I do not mean to downplay how serious her actions were in 2015. I agree with the Department that they were severe. But they also appear to have been isolated. At the time, Ms. Berroa was both frustrated with her son's repeated misbehaving and also worried his behavior would put him in harm's way. Clearly, he was difficult to manage, having misbehaved in all settings to the point of requiring hospitalization and medication. Ms. Berroa did not have a clear handle on how to deal with him. The night in question, her frustrations boiled over and she overreacted. Regardless of his behavior, her actions were not justified. She seemed to recognize this in that moment, even if she could not quite articulate it.

But her son continued to act out after that night; if anything, his behavior got worse, as evidenced by his escalating criminal charges. And yet, Ms. Berroa learned from her mistake. She never again imposed physical discipline. She worked with what was available; she referred her

son to programs and other resources. DCF remained in their lives for years, and did not report any further abuse (or neglect). At some point DCF closed the case and never returned. Given the spotlight on her son at the time—DCF social workers, police, probation officers, court officials, etc.—if he had made any allegation of abuse, it would have likely been documented somewhere. The absence of other reports corroborates Ms. Berroa’s testimony that she did not resort again to physical discipline. Ms. Berroa also explained that her overreaction was in no small part connected to her emotional attachment as a mother, something that would not be present in caring for other children. Her testimony showed insight and that she learned from her mistakes. *Contrast Curran, supra*, (Petitioner had “little insight into the physical and emotional impact that her past behavior may have had” and she did not “appreciate the importance of maintaining a calm and even-keeled demeanor when interacting with young children, even when encountering stressful situations.”); *EEC v. Pena*, OC-22-046 (Div. Admin. Law Apps. Feb. 28, 2025).

Additionally, the incident was over 9 years ago. Ms. Dodd explained this factor weighed in Ms. Berroa’s favor. I agree, but not simply because of the passage of time. Rather, in that time, Ms. Berroa has been tested. She continued to care for her son without further incident. But she also cared for her own children and grandchildren, equally without incident. “The trajectory of her life suggests she has left her past behind her.” *Aguilar, supra*, at *8.

CONCLUSION AND RECOMMENDED ORDER

I find that Ms. Berroa has proven by clear and convincing evidence that she is qualified to be a childcare provider. I recommend EEC reverse its decision and grant Ms. Berroa her license.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate