

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Ana Cornwell,
Petitioner

v.

Docket No. OC-26-0016

Department of Early Education and Care,
Respondent

Appearance for Petitioner:

Robert Clark, Esq.

Appearance for Respondent:

Leah Potash, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY

The Department of Early Education and Care's decision finding daycare provider Ana Cornwell unsuitable for licensure should be upheld because she had a supported 51B on file with the Department of Children and Families that affirmed a finding of neglect of a child in her care. Additionally, she is a mandated reporter and failed to report that a child in her care was in potential danger when she permitted the child's possibly intoxicated, but at least visibly unwell, grandmother to pick him up.

RECOMMENDED DECISION

Petitioner Ana Cornwell requested an adjudicatory hearing to challenge Respondent Department of Early Education and Care's (EEC) decision that her daycare license should be revoked. The parties filed a joint pre-hearing memorandum and 12

proposed exhibits. On June 10, 2026, I held an evidentiary hearing by Webex video platform. It was digitally recorded. I entered the 12 proposed exhibits into evidence as marked. (Exs. 1-12.) EEC called one witness: EEC Background Record Check Specialist Arlyn Singletary. Ms. Cornwell testified on her own behalf. After the hearing, I marked Ms. Cornwell's Notice of Claim as Exhibit 13. EEC filed a closing brief. The Petitioner did not.

FINDINGS OF FACT

Based on the testimony and documents in the record, and reasonable inferences drawn from them, I make the following findings of fact:

1. Ana Cornwell has been licensed to operate a home-based daycare since 2006. (Ex. 3; Cornwell testimony.)
2. In 2025, Ms. Cornwell had a three-year-old child in her care, who I will refer to as Child A. Ms. Cornwell knew Child A's family because she took care of Child A's mother when the mother was a child. Ms. Cornwell had no relationship with Child A's maternal grandmother, but their sons grew up together and were friends. Ms. Cornwell was aware that the grandmother had a history of alcoholism. (Exs. 2, 10; Cornwell testimony.)
3. Child A's grandmother was on his approved pick-up list. This appeal concerns three incidents in April 2025 when the grandmother picked up Child A from Ms. Cornwell's daycare. (Ex. 2; Cornwell testimony.)
4. The first incident occurred on Monday, April 21. Ms. Cornwell described that something was "off" with the grandmother, though she could not say exactly what.

Her skin appeared unusual and her eyes were red. The grandmother struggled to make eye contact and did not talk much; her words came out jumbled and slow. Nonetheless, Ms. Cornwell allowed the grandmother to drive Child A home. (Ex. 2; Cornwell testimony.)

5. The grandmother's appearance concerned Ms. Cornwell, so she asked Child A's mother, who is the grandmother's daughter, whether the grandmother was drinking again. The mother brushed off the concern and said that the grandmother had allergies which were causing the red eyes. (Cornwell testimony.)

6. The second incident occurred the next day, Tuesday, April 22. Ms. Cornwell's assistant was covering for her while she had medical appointments. The assistant similarly noticed that something about the grandmother was "off" when she came to pick up Child A. The assistant denied that the grandmother appeared to be intoxicated. (Exs. 2, 3.)

7. The third incident took place the day after that, on Wednesday, April 23. Ms. Cornwell again noticed that the grandmother seemed "off." Ms. Cornwell also noticed a distinct smell but could not identify it. Ms. Cornwell asked her own adult son to follow the grandmother's car home. The distance between the daycare and the grandmother's home is 0.6 miles. Both Ms. Cornwell and her son observed that the grandmother walked and drove without any issues. (Exs. 2, 3; Cornwell testimony.)

8. A later investigation revealed that the parents called the grandmother at the last minute on the third day to pick up Child A. The grandmother admitted consuming three White Claw alcoholic drinks during lunch around 1:00 PM. When she

picked up Child A at 4:45 PM, the grandmother stated she did not feel intoxicated. She also denied having any present issues with alcohol. (Exs. 2, 3, 12.)

9. Ms. Cornwell concluded that the grandmother was not impaired during the three pick-ups. However, she was worried about the risk to Child A, as she was aware of the grandmother's history with alcoholism. So, on the following day, Ms. Cornwell told Child A's parents that she was not comfortable with the grandmother picking up the child and that they needed to find another person to do pick-ups. She told the parents separate from each other because they were living apart and separated at the time. (Exs. 2, 3, 10; Cornwell testimony.)

10. Under G.L. c. 119, §§ 21 and 51A, as a daycare provider Ms. Cornwell is a "mandated reporter." She failed to report the three incidents to the Department of Children and Families (DCF). (Ex. 2; Cornwell testimony.)

11. Ms. Cornwell attended a training session 22 years ago where the local fire department told her and other providers that they could never withhold children from their guardians. Ms. Cornwell did not believe she could stop the grandmother from picking up Child A. (Exs. 2, 3, 10, 11; Cornwell testimony.)

12. On Thursday, April 24, DCF received an anonymous 51A report regarding neglect by Ms. Cornwell for allowing the grandmother to drive home with Child A. The anonymous reporter was later identified as the child's father. The 51A report prompted an investigation by DCF. (Ex. 2.)

13. DCF did not interview Child A's father. (Ex. 12; Singletary testimony.)

14. In the anonymous complaint, the father mentioned that Ms. Cornwell's first language was not English and that he had some difficulty understanding everything during his conversation with her. (Ex. 3.)

15. DCF interviewed Ms. Cornwell's assistant. She denied ever contacting Ms. Cornwell with concerns about the grandmother. (Ex. 2.)

16. A review of Ms. Cornwell's DCF records revealed that DCF investigated Ms. Cornwell one time in the past for leaving children alone outside the house. This report was unsupported. In 2011, EEC received a complaint that Ms. Cornwell put hot sauce on a child's tongue as a punishment. This report was also unsupported. (Exs. 2, 9.)

17. Ms. Cornwell consented to an EEC background record check after DCF reported the incidents to EEC. EEC opened an investigation into the three 2025 pick-up incidents. EEC's report largely mirrored the DCF investigation and report. EEC also did not interview Child A's father, the only person who reported—in his anonymous complaint—that Ms. Cornwell stated the grandmother was intoxicated. (Exs. 3, 11.)

18. On April 28, 2025, an EEC licensor made an unannounced visit to Ms. Cornwell's daycare and found only one noncompliance: the First Aid Kit lacked updated emergency contacts. (Ex. 3.)

19. On May 8, 2025, an EEC licensor returned to the daycare for another unannounced visit. This time, they spoke only about the steps Ms. Cornwell should have taken as a mandated reporter. (Ex. 3.)

20. DCF interviewed six families of children under Ms. Cornwell's care. All of the families denied having any concerns with alcohol use around the daycare. (Exs. 2, 12.)

21. On June 4, 2025, DCF supported the allegation of neglect by Ms. Cornwell. DCF concluded that she permitted Child A to leave with his maternal grandmother who appeared to be intoxicated. (Ex. 3.)

22. Ms. Singletary considered Ms. Cornwell's suitability to operate a daycare based on the factors listed in 606 CMR 14.12(f). She concluded that Ms. Cornwell negatively impacted the safety and wellbeing of Child A. (Ex. 2; Singletary testimony.)

23. On October 7, 2025, EEC determined that Ms. Cornwell was not suitable for licensure, employment, or affiliation with an EEC licensed program. EEC sent a copy of the determination to Ms. Cornwell that day. (Ex. 2; Singletary testimony.)

24. On October 14, 2025, Ms. Cornwell filed a Notice of Claim requesting a hearing regarding EEC's determination. (Ex. 13.)

CONCLUSION AND RECOMMENDATION

Early education and care programs in Massachusetts may operate only under licenses from EEC. G.L. c. 15D, §§ 6-7. EEC is authorized to promulgate regulations about the circumstances in which it will deny licenses to applicants. *Id.* § 10.

If a report of child abuse or neglect made to DCF involves an "institutional setting," like Ms. Cornwell's home daycare, and is supported, DCF notifies EEC in writing by transmitting a copy of the 51A report and the Department's 51B response if it has

reason to believe that abuse or neglect may have occurred. 110 CMR 4.34(2)(a). This prompted EEC in turn to conduct its own investigation regarding the incidents.

EEC conducts background checks on candidates every 3 years, unless there has been a child-welfare investigation involving the candidate. In this appeal, a background record check was triggered by the DCF complaint and investigation. When EEC conducted its background check, it found that Ms. Cornwell had a discretionary disqualifying background because of DCF's supported 51B finding. 102 CMR 1.05(1)(a). Candidates have a discretionary disqualifying background if their background record checks show they have been found to be a "person responsible for the abuse or neglect of a child . . . as appearing on any check of any state or national child welfare or child abuse and neglect database." 606 CMR 14.10(6)(c).

In the case of discretionary disqualifications, the regulations direct the department to consider the following factors:

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.

606 CMR 14.12(2)(f). For the purposes of its analysis, the department is authorized to collect police reports, docket sheets, candidate statements, reference letters, and other materials. 606 CMR 14.12(2)(c). In order to determine suitability for licensure, the department must consider whether the individual has presented “clear and convincing evidence . . . in light of the concern for children’s safety.” 606 CMR 14.12(2)(e).

Most of the regulatory factors weigh against Ms. Cornwell’s suitability.

I start with factors 3, 4, 5, and 6. The majority of the hearing in this matter focused on whether Ms. Cornwell knew that the grandmother was “intoxicated,” and not merely “off.” Unfortunately, both the DCF and EEC investigations into what exactly happened during the three pick-ups were deficient. Both investigations concluded that Ms. Cornwell knew that the grandmother was intoxicated when she let Child A go with her. The problem with this conclusion is that the reliable evidence does not support that conclusion. Even so, I ultimately conclude that Ms. Cornwell knew that something potentially serious was wrong with the grandmother and that this put Child A in unnecessary danger.

The 51B report describes how Ms. Cornwell told Child A’s father that the grandmother “presented as intoxicated” during pick-ups at the daycare. Critically, however, the father was never interviewed by either DCF or EEC. In a non-emergency 51B response, DCF should “contact any parent or parent substitute living out of the

home, who can be located, a minimum of one time” when conducting its investigation.

110 CMR 4.28(2)(d).

Moreover, the father had no personal knowledge of the incidents. His understanding was based on a phone call he had with Ms. Cornwell, and he acknowledged that English was not Ms. Cornwell’s first language and therefore he had difficulty understanding the conversation.

But, just because the investigations lacked rigor, this does not mean that Ms. Cornwell did everything that she was supposed to do. As a childcare worker she was a mandated reporter, G.L. c. 119, § 21, which means that she was required to report to DCF if she had “reasonable cause to believe” that a child was suffering from abuse or neglect. G.L. c. 119, § 51A. In this appeal, there was ample evidence for Ms. Cornwell to have had reasonable cause to believe that the grandmother’s condition could have had catastrophic effects on Child A.

Ms. Cornwell admits that the grandmother appeared “off” and had red eyes, odd appearing skin, and a noticeable odor. She was also aware of the grandmother’s history of alcoholism. Ms. Cornwell also asked her adult son to drive behind the grandmother’s car to make sure she was driving well. In any event, Ms. Cornwell certainly believed the incidents were serious enough to bring them up to the mother and father and tell them that she was no longer comfortable with the grandmother picking up Child A.

Although Ms. Cornwell did not contact DCF as she was required to, she did at least inform Child A’s parents. While Ms. Cornwell honestly believed she could not withhold Child A from his grandmother based on her understanding of a training she

took with the local fire department, as a mandated reporter, she should have known to report the incidents to DCF.

Factors 1 and 2 also weigh against Ms. Cornwell. She was 54 years old, obviously an adult with considerable work and life experience. The DCF finding was in June 2025, 4 months after the three incidents occurred, which is very recent. Even now, 14 months after the incidents is quite recent.

As for evidence of rehabilitation (Factor 7), very little time for rehabilitation has passed. But it is not likely that she would have participated in much rehabilitation because she does not acknowledge the gravity of her actions and still strenuously disagrees that she did anything wrong.

On the positive side of the ledger, these incidents were isolated. After a more than 20-year career as a daycare provider, these are the only incidents that were of concern to EEC (Factor 5). Even during an unannounced licensor visit, the licensor issued only one citation because the First Aid Kit lacked updated emergency contacts (Factor 4). Finally, five families of children in Ms. Cornwell's daycare provided references on behalf of Ms. Cornwell. They universally praised her caretaking abilities (Factor 8).

For the above-stated reasons, Ms. Cornwell has failed to present clear and convincing evidence of her suitability to be a licensed daycare provider. I therefore recommend that EEC find Ms. Cornwell unsuitable and revoke her license.

If Ms. Cornwell's license is revoked, the general rule is that she cannot renew her license for five years, and then only if she "can demonstrate a significant change in circumstances." 102 CMR 1.07(4)(b)(2). At its "sole discretion," however, EEC may

“entertain” an application for licensure in less than five years; exercise of such discretion is not appealable. 102 CMR 1.07(4)(b)(3). Because the incidents were isolated and Ms. Cornwell has an otherwise clean twenty-year record, I further recommend that EEC exercise its discretion to consider renewing her license if she shows significant signs of rehabilitation after this decision is issued.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: July 22, 2026