

COMMONWEALTH OF MASSACHUSETTS  
Division of Administrative Law Appeals

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SARAH FOURNIER

*Petitioner*

v.

DEPARTMENT OF EARLY

EDUCATION AND CARE,

*Respondent*

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Docket No. OC-24-0508

Date: April 1, 2025

**Appearances:**

For Petitioner: Jared Fiore, Esq.

For Respondent: Ryan Foreman, Esq.

**Magistrate:**

Eric Tennen

**SUMMARY OF RECOMMENDED DECISION**

The Department of Early Education and Care denied Sarah Fournier’s application because it found a household member, her ex-husband Shawn Fournier, was not suitable. It based its denial on past allegations of criminal conduct, supported allegations of abuse, and an absence of rehabilitation. While some of the past allegations were properly considered, others should not have been. Moreover, the Department should have considered evidence of rehabilitation. After taking into account these errors, coupled with new evidence from the hearing, Ms. Fournier has proven by clear and convincing evidence that Mr. Fournier is a suitable household member.

**INTRODUCTION**

Pursuant to 102 Code Mass. Regs. § 1.08(2)(a) and 606 Code Mass. Regs. § 14.14(2), Ms. Fournier timely appeals a decision by the Department of Early Education and Care (“EEC” or “the Department”) denying her application for a daycare license. On March 7, 2025, I conducted a virtual hearing on the Web Ex platform with the consent of both parties. Investigator Kimberly Stockton testified on behalf of EEC. Ms. Fournier testified on her own behalf, as did her ex-husband, Shawn Fournier. I entered exhibits 1-18 into evidence.

**FINDINGS OF FACTS<sup>1</sup>**Introduction

1. Sarah Fournier was previously licensed by EEC between 2004 and 2010. (Sarah Fournier.)
2. Around that time, she met Shawn Fournier. They were married in 2007. They lived together in the marital home, which is where Ms. Fournier ran her daycare. (Sarah and Shawn Fournier.)
3. Sometime before 2010, EEC began a routine background check which included Mr. Fournier as a household member. (Sarah and Shawn Fournier.)
4. A background check looks at, among other things, criminal history and prior involvement with the Department of Children and Families (“DCF”). The background check applies to the licensee and any “household members.” (Stockton.)
5. Some prior conduct is automatically or presumptively disqualifying. 606 Code Mass. Regs. § 14.10(1) & (2). Other prior conduct may trigger a discretionary review process. *Id.* at § 14.10(3).
6. The background check revealed, among other things, a criminal charge against Mr. Fournier from 2001. In response, Ms. Fournier submitted significant information about it

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<sup>1</sup> Ms. Fournier sought to introduce certain, sensitive evidence about her past. The Department objected. It did not dispute the facts were true, but argued they were irrelevant. Ms. Fournier explained these background facts were relevant to her credibility because they explained why she was pursuing her license and why she would never do anything to jeopardize the safety of the children in her custody. I deferred deciding whether I would admit those facts. Upon reflection, the facts are relevant, even if marginally so. I thus admit them but consider them solely for the purpose of weighing Ms. Fournier’s credibility. The details need not be recounted here. They are recited in the parties’ joint pre-hearing memorandum, and I incorporate them into this decision.

- (which I discuss more fully below). (Ex. 17; Sarah Fournier.)
7. At that time, Mr. Fournier also had some other dismissed criminal charges. (Ex. 18.)
  8. However, it is not clear how much EEC reviewed because Ms. Fournier decided to close her daycare in 2010. At that point, the background check was no longer necessary. (Ex. 17; Sarah Fournier.)
  9. In 2017, the Fourniers divorced, and Mr. Fournier moved out of the marital home. (Sarah and Shawn Fournier.)
  10. In 2020, Ms. Fournier reapplied for her daycare license. She listed Mr. Fournier as a household member. (Agreed facts.)
  11. Because of Mr. Fournier's past, her application once again triggered the discretionary review process. Thinking that EEC wanted more information about Mr. Fournier's 2001 charge, in July 2021 Ms. Fournier submitted a long letter with several attachments about that incident. (Ex. 17.)
  12. However, the Department believed Mr. Fournier was not a household member and listed him as inactive. It granted Ms. Fournier's application, and she again began operating a daycare again in her house in 2021. (Agreed facts.)
  13. Sometime after 2021, Mr. Fournier moved back into the marital home. Ms. Fournier listed him again as a household member, which again required a background check.<sup>2</sup> (Ex.

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<sup>2</sup> It is unclear if Ms. Fournier did this because she was updating her records, as she was required to do if something changed, or in response to a periodic background check by the Department. Either way, the Department does not allege Ms. Fournier withheld any information or attempted to mislead it, and Ms. Fournier does not dispute the Department was within its right to conduct a background check of Mr. Fournier.

18; Stockton; Sarah Fournier.)

14. The information which triggered a discretionary review process this time included the same information that triggered the process before plus new information. The new information consisted of two DCF 51B reports<sup>3</sup> supporting allegations of abuse in 2017 and 2018. Mr. Fournier also had some newer criminal charges including one in 2018 and one in 2019, both of which had been dismissed. (Exs. 4-9; Stockton.)

#### Criminal Record

15. In total, Mr. Fournier has 16 entries in his criminal record. All but two are misdemeanors. Many are for driving-related offenses. (Ex. 18.)
16. Approximately seven are for “violent offenses.” However, of those, a few are part of a single incident. Thus, he has two charges for one incident in 2001, one charge in 2003, two charges for one incident in 2006, one charge in 2018, and another charge in 2019. (Ex. 18; Stockton.)

#### 2001 juvenile charges

17. The 2001 charges were issued when Mr. Fournier was a juvenile. What matters are a few things. First, he has always denied the allegations. Second, he was found “not delinquent.”<sup>4</sup> Third, Mr. Fournier submitted a sworn affidavit from the complainant’s

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<sup>3</sup> DCF investigations of alleged abuse or neglect are initiated by reports authorized under G.L. c. 119, § 51A. The results of those investigations, and whether they are supported or unsupported, are recorded in reports governed by G.L. c. 119, § 51B. These are colloquially referred to as “51A” and “51B” reports. The documents admitted into evidence are all 51B reports, because they contain the results of the various investigations.

<sup>4</sup> In juvenile court being found “not delinquent” is the equivalent of being found “not guilty” after a trial in adult court. See <https://www.mass.gov/info-details/information-about-jvenile-court-dispositions-and-sanctions#youth-dispositions->

mother explaining in detail why her daughter's allegations were not true and supporting Mr. Fournier's request to have the allegations removed from his record. Finally, his lawyer in that case submitted a letter explaining some facts from the trial and the reasons why he was convinced Mr. Fournier was innocent.<sup>5</sup> (Exs. 17 and 18; Shawn Fournier.)

2003-2006 dismissed charges

18. In 2003, Mr. Fournier was charged with assault and battery. The charge was dismissed one month later. There is no further information about this charge. (Ex. 18.)
19. In 2006, he was charged with assault and battery and assault and battery with a dangerous weapon. The charges were dismissed a few weeks later. There is no further information about this charge either. (Ex. 18.)

2018-2019 dismissed charges

20. In 2018, he was charged with assault and battery on a household member, to wit, Ms. Fournier. That was ultimately dismissed. (Exs. 6, 7, & 18.)
21. At the time, Ms. Fournier said Mr. Fournier "picked [her] up and threw her to the ground several times. He threw her on the bed, held her arm and screamed in her face. [He] then grabbed [her] and threw her out of the bedroom." (Ex. 6.)
22. Four children were home and, while they did not witness the altercation, they could hear the argument from downstairs. (Ex. 6.)
23. Although dismissed, Mr. Fournier admits what was alleged. (Shawn Fournier.)
24. In 2019, he was again charged with assault and battery on a household member, again

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<sup>5</sup> These documents were obtained in response to EEC's background check of Mr. Fournier in 2010. They were submitted to EEC back then and resubmitted again in 2021.

against Ms. Fournier. That case was also dismissed. (Ex. 18.)

25. The incident began outside, while Mr. Fournier was in his car with his children. Ms. Fournier said Mr. Fournier was being verbally abusive. While the children were still in the car, Ms. Fournier went inside the house and Mr. Fournier followed her. He then kicked a door, causing it to open and hit Ms. Fournier on the arm. Ms. Fournier later obtained a restraining order. (Ex. 8.)

26. Although also dismissed, Mr. Fournier also admits what was alleged. (Shawn Fournier.)

#### DCF Involvement

27. In 2017, DCF investigated allegations of physical abuse by Mr. Fournier against his stepson. Ms. Fournier told DCF that Mr. Fournier and her son were arguing, and Mr. Fournier pushed him down with his foot. She then saw Mr. Fournier push him against a wall. (Ex. 4.)
28. She added that Mr. Fournier has tried to exert his dominance with her over the years. He is either calm or the “hulk” and “can’t control it.” She said it “got physical ‘once or twice’ and she went to the police to document it.” The last time had been “years ago,” but he had “gotten in her face since.” (Ex. 4.)
29. DCF supported allegations of physical abuse. (Ex. 4.)
30. After he was criminally charged in 2018, DCF opened up an investigation related to the criminal incident. The facts reported by DCF do not differ much from what was reported by the police. But the 51B report adds more insight by Ms. Fournier. (Ex. 5.)
31. She first appeared to make excuses for Mr. Fournier’s conduct, saying he had been “addicted” to video games and there was tension when she asked him to delete a game.

She later blamed herself for the incident. She added that their relationship (at the time) was “over” but she “feels as if she has always taken him back because she gets overwhelmed and needs help with the children.” (Ex. 5.)

32. Despite prior admissions to DCF of past violence just one year earlier, in this report she “denied anything physical in the past.” (Ex. 5.)
33. Ms. Fournier also became angry during the investigation because she perceived DCF was making assumptions about her and how she cared for her children. At one point she asked for a new investigator and would not let the current one back in her home. She affirmed that she continued to let Mr. Fournier back in the home after this incident, despite repeated warnings not to. A DCF case worker was worried that Ms. Fournier was continuing to expose her children to Mr. Fournier despite the risks he appeared to pose to them at that moment. (Ex. 5.)

Discretionary review process

34. During the discretionary review process, Mr. Fournier was given a chance to explain his charges and the DCF findings. That is part of the standard procedure. An applicant can explain their past conduct in what is called a “candidate statement.” (Stockton.)
35. EEC already had some documentation about Mr. Fournier’s past from Ms. Fournier’s 2021 submission: the information about his 2001 juvenile case, a statement by Mr. Fournier, and several reference letters. (Ex. 17.)
36. Additionally, Mr. Fournier submitted an updated “candidate statement” and Ms. Fournier submitted a letter of support. Later, EEC allowed Mr. Fournier to supplement his application; he submitted several more letters of support. (Exs. 2, 3, & 10-16.)

37. In both his 2021 and 2024 candidate statements, Mr. Fournier took responsibility for his 2018 and 2019 charges and DCF involvement. He acknowledged there was “no excuse,” he made “a mistake” and the incidents were “out of character.” Regarding his stepson, he “knew exactly what [he] had done was wrong and unacceptable behavior” and his stepson did nothing wrong. He expressed regret for everything. (Exs. 3 & 17.)
38. By way of explanation, he said that was a particularly emotional time in his life. Among other things, he and Ms. Fournier were separating but he held out hope that they could reunite. When it became clear that would not happen, his emotions got the best of him. (Exs. 3 & 17.)
39. He explained some steps he took towards rehabilitation. He attended anger management, a nurturing fathers’ group, and had counseling session with licensed marriage and family therapists (attending sessions once a week for several months). (Exs. 1, 3, & 17.)
40. He also apologized to his stepson and Ms. Fournier “more times than [he] can count.” He urged the Department to “not hold [Ms. Fournier] accountable for [his] wrongdoings.” (Ex. 17.)
41. Ms. Fournier’s letters were supportive. She said that they naturally had arguments and “twice, our arguments escalated to where I decided to involve the police.” However, she added that “those two incidents were outliers in the hundreds and hundreds of days that Shawn and I have been friends, partners, and co-parents for the past 17 years.” (Ex. 2.)
42. The reference letters from 2021 were submitted by people who knew Mr. Fournier and said he always acted appropriately with his family. None of those letters, however, indicated the authors were aware of the various accusations against Mr. Fournier. (Ex.



17.)

43. The new reference letters submitted in 2024 were different. They were all equally supportive. But unlike the prior letters, many referenced, generally, Mr. Fournier's past:

- “whatever he has done in his past only has changed him into a great man.” (Ex. 11.)
- “I recommend Shawn as someone who should not be judged by his distant past. I truly believe Shawn's record does not represent the character that he is today.” (Ex. 13.)
- “I believe that Shawns disqualifying background will not adversely impact children in the care of the EEC licensed, approved, funded program.” (Ex. 14.)
- “The past is called the past for a reason . . . who and what Shawn Fournier is in this day in age, you couldn't pay me to believe he has the past that he does. . . I strongly urge you to look past he past[.]” (Ex. 15.)
- “I strongly believe that mistakes made by Shawn in the past were just that, mistakes. I know Shawn has grown tremendously from his previous blunders[.]” (Ex. 16.)

44. Some also spoke about how much time Mr. Fournier spends working with children, aged 4 – 15, as a coach and board member of the town's youth football and cheerleading organization. He directly coached kids, volunteered at fundraisers, chaperoned out-of-state trips for competitions, and more. He was a role model and mentor to them all. (Exs. 10-16.)

#### EEC Review

45. Once EEC has all this information, and the application is complete, the reviewer—here Ms. Stockton—conducts the review by considering a series of factors listed in 606 Code of 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. 18; Stockton.)

- 46. Ultimately, Ms. Stockton did not find Mr. Fournier to be suitable. Per EEC terminology, he was considered a “disqualified household member.” (Ex. 18; Stockton.)
- 47. She referenced the 2001 charges, both in counting his prior charges and charges for violent acts. She did not discuss the substance of the charges or the evidence supporting Mr. Fournier’s insistence that he was completely innocent of those charges. It is not clear whether she did not do so because she did not consider Mr. Fournier’s submissions or because she did not put any weight on those charges. (Ex. 18.)
- 48. When Mr. Fournier’s attorney reached out about providing additional information in 2024, EEC said “any form of formal rehabilitation or counseling documentation would be useful[.]” (Ex. 18.)
- 49. Then, with respect to rehabilitation, Ms. Stockton wrote that, although Mr. Fournier takes responsibility for his actions, “he does not provide any . . . formal rehabilitation or counseling documentation regarding his anger and behavioral issues. This factor weighs in determining Mr. Fournier’s suitability because not enough time has [passed to] demonstrate change of behavior.” (Ex. 18.)
- 50. Ms. Stockton acknowledged that he later submitted additional reference letters, even though he had already reached his limit. She said these additional references “were taken into consideration for review but were not weighted in heavily determining Mr. Fournier’s suitability.” (Ex. 18.)

51. She summarized her reasoning as follows:

From ages seventeen (17) and thirty-five (35) years old, Mr. Fournier has seventeen (17) criminal offenses . . . six (6) of which are violent offenses. Mr. Fournier has two (2) supported 51B reports related to these charges. Mr. Fournier's criminal record shows a pattern of concerning and impulsive violent behavior occurring over an eighteen (18) year timespan. Despite the charges being dismissed, this factor did not heavily influence the suitability determination . . . There is still significant concern regarding his actions during these incidents . . . Reports document on two different occasions, Mr. Fournier physically harming a family member or a household member in the presence of other children. This behavior poses a direct risk to children and youth and weighed heavily . . . The incidents were violent in nature and not a substantial amount of time has . . . passed to ensure these were isolated events[.]

(Ex. 18.)

Testimony

52. At the hearing, Mr. and Ms. Fournier provided more details about a variety of relevant issues.
53. Mr. Fournier's testimony about the facts surrounding the various allegations was consistent with what he had already written in his statements. He continued to take responsibility for his actions and express remorse. (Shawn Fournier.)
54. He also explained, in more detail, the rehabilitative steps he had taken. (Shawn Fournier.)
55. Around the time of his divorce, he began counseling with a therapist. He thought it was helpful. He saw him every other week for about eight months. When that therapist had health problems, he began seeing a different therapist. He worked with her for about a year, starting in 2019 through 2020. It began as weekly sessions but over time switched to every other week. (Shawn Fournier.)
56. The second therapist recommended he participate in a nurturing father's group. The group was run by a DCF worker and a counselor. It consisted of several other fathers,

- many of whom were DCF involved. (Shawn Fournier.)
57. Mr. Fournier participated in the counseling and group sessions voluntarily. He was under no obligation to do any of it. (Shawn Fournier.)
58. He felt as if he got a lot out of it. Counseling helped him open up “and see a lot of stuff.” After a while, when he was more open, his therapy made him develop meaningful insight into the origins of his anger, which centered around the false charges in 2001. He even apologized again to Ms. Fournier about his past conduct through this new perspective. (Shawn Fournier.)
59. In 2024, he reached out to several people for reference letters. He spoke to each of them about exactly why he needed the letters. He explained the licensing process and his life circumstances that DCF was reviewing, meaning, he explained about his recent misconduct. He believes at least one person already knew something about his past because she was in charge of running his criminal history for his work with the youth football league. Nevertheless, he spoke to her, and every other reference, about these issues. (Shawn Fournier.)
60. Since the last incident, he has become more involved with his kids and strengthened his relationship with them. This includes his stepson who was the subject of the 2017 DCF report. He is involved in almost every aspect of their lives. (Shawn Fournier.)
61. He owns his business and is away from the home most all day. He is not involved in Ms. Fournier’s daycare in any way. (Shawn Fournier.)
62. Ms. Fournier’s testimony was also consistent with her various written statements. She offered no real contradictions. (Sarah Fournier.)

63. She emphasized that her priority is her safety and the safety of her children, both in the home and in her daycare. She recognizes the harm Mr. Fournier caused, but believes his conduct was not part of a pattern but instead very much of the moment. (Sarah Fournier.)
64. She also explained that, because of some things in her past, she tends to go overboard now when she perceives a situation as inappropriate. She said this by way of explaining some of her past statements about Mr. Fournier's conduct. (Sarah Fournier.)
65. She corroborated that Mr. Fournier continued to co-parent with her even after he moved out in 2019. He was available to their children on almost a daily basis. (Sarah Fournier.)
66. She is aware he was involved in therapy and worked hard to become a better person. Since the last incident, she has had no reservations about his ability to care for their children and be safe around them. (Sarah Fournier.)
67. While they are still divorced, she agreed he could move back home. They continue to be friends.<sup>6</sup> (Sarah Fournier.)

## DISCUSSION

When an applicant to be a childcare provider or a household member has a potentially disqualifying background, *see* 606 Code of Mass. Regs. § 14.10(6), EEC may conduct a discretionary review to determine whether to grant or deny a childcare license. 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

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<sup>6</sup> While Ms. Fournier did not say exactly why she agreed Mr. Fournier could move back home, I infer it was primarily to make it easier for him to co-parent, something they both agreed he did well. I also infer they are not romantically involved again since they remain divorced. But they obviously get along and consider each other friends. (Sarah and Shawn Fournier.)

concern for children’s safety.” 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. For the following reasons, Ms. Fournier has proven by clear and convincing evidence Mr. Fournier’s suitability as a household member.

Reliance on prior criminal charges and substantiated allegations of abuse

Before evaluating EEC’s process, it is important to determine what information it should have considered and what, if anything, should have been excluded from review.

It is not unusual, an entirely proper, for EEC to deny an applicant a license relying on a supported allegation of abuse by DCF or a criminal conviction. *See, e.g., EEC v. Aguilar*, OC-23-0251, at \*9, 2023 WL 9022704, (Div. Admin. Law App. Dec. 21, 2021), *citing* cases. But sometimes the Department’s denial is based on mere unsupported allegations or charges that did not result in convictions. *See, e.g., EEC v. Gupta*, OC-23-0396 (Div. Admin. Law App. Oct. 18, 2024), *citing* cases. Reliance on those facts can be proper in most instances:

The Department may certainly rely on uncharged conduct, but its review must evince a careful evaluation of the facts. It is one thing for an agency to rely on the facts of an incident when the accused was, for example, convicted of the crime. It is another thing to accept as true alleged facts after the legal process has provided no verdict and, in this instance, the prosecution has abandoned its allegations. That requires a more searching inquiry.

*Id.*

On the other hand, EEC might also seek to rely on charges for which the applicant was acquitted after a trial. Unlike dismissed charges, where it may be proper to rely on them in certain situations, the circumstances would have to be rather compelling for the Department to

base its denial on acquitted conduct. *Cf. Commonwealth v. Dorazio*, 472 Mass. 535 (2015) (excluding evidence of allegations for which the defendant was acquitted in a prior trial); *Dowling v. United States*, 493 U.S. 342, 355 (1990) (Brennan, J. dissenting) (use of acquittal evidence offends the established interests of preserving the finality of judgments and protecting individuals from governmental overreaching.)

This case presents a combination of these examples: acquitted conduct, charged, but dismissed, criminal conduct, and supported DCF allegations. EEC rightly considered some of this conduct but erred in considering others. Start with the 2001 finding of not delinquent, i.e. not guilty. In addition to this jury verdict, Mr. Fournier submitted compelling, affirmative evidence that he was innocent of those charges, including an affidavit for the complainant's mother. This is not the unusual case in which acquitted conduct should be considered. Yet, investigator Stockton relied on the 2001 charges in her report: she used them to count the total number of Mr. Fournier's prior charges and prior violent charges. She also spoke about his "pattern of concerning and impulsive violent behavior occurring over an 18 year timespan." While it is not clear how much weight EEC placed on these prior charges, it is clear it placed some weight on them. That was error.

Then, given the lack of any additional information for the dismissed charges between 2003 – 2006, to the extent EEC relied on these charges, that was also error.

However, Mr. Fournier admits to the underlying conduct that led to the more recent, dismissed charges and the supported DCF allegations from 2017 to 2019. That is the kind of evidence that makes these charges reliable and thus, EEC was on solid ground in relying on that conduct.

Failure to rely on evidence of rehabilitation

While EEC weighed evidence it should not have relied on, it failed to weigh evidence which it should have considered. Investigator Stockton did not place much weight, if any, on Mr. Fournier's initial support letters because it was unclear whether the authors were aware of the specific reasons for EEC's investigation. If the authors were aware, and they still attested to Mr. Fournier's good character, that would have been some evidence of rehabilitation. Here, the letters referenced Mr. Fournier's "mistakes" and his "past." But absent some context, that could refer to many things which might not include the conduct troubling EEC. Failure to weigh these letters was within the realm of the EEC's discretion.

However, investigator Stockton similarly did not place any weight on Mr. Fournier's own statements regarding his rehabilitation. While the application asks for evidence of rehabilitation, it does not specify what form it should take. Mr. Fournier described his counseling and group work in his application and candidate statements. Investigator Stockton did not consider Mr. Fournier's evidence because he did not submit anything "formal" (which I interpret to mean something like third-party records). A candidate's statement can be just as compelling as a "formal" record in the right circumstances. Unlike the letters, this evidence should have been given some consideration here. *See Commonwealth v. Fredette*, 56 Mass. App. Ct. 253, 259 n.10 (2002) ("Failure to exercise discretion is itself an abuse of discretion.").

New evidence

Given that EEC considered evidence it should not have and failed to consider evidence that was properly before it, I have reservations about its review process in this matter. Yet, I need not decide whether those errors alone would warrant a different result because "I should 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].” *Gupta, supra*, at \*10.

For example, EEC did not give Mr. Fournier any credit for rehabilitation because he submitted nothing “formal.” As noted, it should have at least considered his statements about his therapy even if the statements were bareboned and may have been given little weight anyway. However, in his testimony, he elaborated about his therapy, which I find was significant. Although under no obligation, he voluntarily engaged in years of therapy and also participated in a nurturing group. That helped him understand the root of his anger, which centered on the false charges in 2001. Although already remorseful for what he had done, he found new reasons to apologize to Ms. Fournier and his stepson. By all accounts, it also marked the beginning of the end for his aggressive attitude and conduct.

EEC understandably did not weigh Mr. Fournier’s support letters initially, because it was uncertain the authors were aware of his misconduct. After a hearing, it is clear they were. I credit Mr. Fournier’s testimony that he spoke to everyone independently and explained his past misconduct. That provides context to the references of Mr. Fournier’s “past” and his “mistakes.” With that understanding, the letters should have carried some weight. It is unlikely that people who rely on Mr. Fournier to supervise their children, and are also aware of his past violence, would write letters of support if they did not truly believe he had changed.

Along those lines, Mr. Fournier explained that since 2019, he has worked hard to become more involved in his kids’ lives and specifically reconciled with his stepson. He is also very active in his town’s youth football and cheerleading program, coaching and overseeing many kids. This evidence is particularly compelling because it is not a hypothetical prediction that he might be safe around kids. Rather, it is years of real-world experience on a large scale showing he is.

**CONCLUSION AND RECOMMENDED ORDER**

EEC weighed evidence against Mr. Fournier that it should not have considered and failed to consider evidence it should have weighed. Those errors, coupled with the new evidence adduced at the hearing, put Mr. Fournier's application in a different light. I find that Ms. Fournier has proven by clear and convincing evidence that Mr. Fournier is a suitable household member. I recommend EEC **reverse** its decision and grant Ms. Fournier her license.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

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Eric Tennen  
Administrative Magistrate