

COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

J.C.,  
Petitioner,

Docket No.: OC-25-0357

v.

Department of Early Education and Care,  
Respondent.

**Appearances:**

For Petitioner: J.C., pro se  
For Respondent: Fatima Islam, Esq.

**Administrative Magistrate:**

Eric Tennen

**SUMMARY OF RECOMMENDED DECISION**

The Department of Early Education and Care (EEC) denied J.C.’s application for a family child care license because it found her daughter, a family household member, was not qualified. The decision was based on juvenile charges against her daughter from a few years ago when she was just 14 years old. The charges, in turn, arose out of conduct partly caused by very serious mental health issues. New evidence presented at the hearing demonstrates that the police report did not accurately describe the daughter’s conduct; it is not clear whether she acted criminally at all. Moreover, since that time, her daughter has successfully completed mental health treatment and her mental health symptoms have abated. Accordingly, I recommend EEC approve J.C.’s daughter as a qualified household member.

**INTRODUCTION**

The Petitioner timely appeals a decision by the Department of Early Education and Care (“EEC” or “the Department”) finding her daughter was not a qualified household member. On October 23, 2025, I conducted a virtual hearing. The Department presented one witness,

Andreia Carlos, a background check reviewer. The Petitioner testified on her own behalf and called multiple fact witnesses: her daughter, son, husband, mother, and two friends.<sup>1</sup> I entered exhibits 1-23 into evidence. The parties submitted closing arguments at which point I closed the administrative record.

## **FINDINGS OF FACT**

### **Introduction**

1. The Petitioner, J.C., is a long-time family care provider. She has had a license for almost 15 years. (J.C.)
2. Every few years she must renew her license, which also requires her to renew a list of household members and persons regularly on the premises. She, and them, are all subject to a background check. (Carlos.)
3. Some prior conduct is automatically disqualifying. 606 Code of Mass. Regs. § 14.10(1). Other prior conduct may trigger a presumptive or discretionary review process. *Id.* at §§ 14.10(2) & (6). (Carlos.)

### **Daughter's criminal case**

4. As part of the Petitioner's background review, EEC found information that triggered its review process: when Daughter was 14 years old, she was charged as a juvenile with

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<sup>1</sup> Because this case involves juvenile charges which were dismissed, and discusses a juvenile's mental health issues, I entered a separate order impounding the exhibits and allowed the Petitioner to proceed under a pseudonym: J.C. As a result, I am not going to use her family member's names. Instead, I will call them by their relationship to J.C.: Husband, Son, Daughter, Mother, Friend 1 and Friend 2.

assault and battery with a dangerous weapon and strangulation. Both offenses were allegedly against Son (Daughter's older brother). (Exs. 1 & 6.)

5. The charges were ultimately dismissed. However, given their seriousness, they were presumptively disqualifying<sup>2</sup> and triggered a review process. (Carlos.)
6. According to the police report, when officers arrived on the scene, Husband told them that Son "was stabbed in the hand by his daughter." (Ex. 6.)
7. While inside the home, J.C. handed the officers "a small black box cutter and stated that this was the weapon used by [her daughter] during the altercation." (Ex. 6.)
8. Son told the officers that he and Daughter (his sister) "were play fighting in the dining room until she became more aggressive." Then, she "pushed him down and began to put her arm around his neck." He said he "lost consciousness" but also, he was able to "slip out of her arm's grip." She then followed him back to the living room "with a black box cutter and sliced his left hand with the blade." He was finally "able to take control of [her] and hold her down on the floor until his father came into the room." (Ex. 6.)

#### **Review process**

9. After being notified of the department's review, J.C. and Daughter submitted additional documents: a candidate statement (by Daughter), several letters and documents from Daughter's treatment providers confirming her participation in treatment, Department

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<sup>2</sup> Ms. Carlos explained how EEC implements the presumptive and discretionary review process; it has to do with how many people review the case. In the discretionary review process, there are three total people: the background check reviewer and two more. For the presumptive review process, there are a total of four people who review the case: the background check reviewer and three more. (Carlos.)

of Children and Family records showing the department opened, and then closed, a case involving the family, a report card from early 2024, several letters of support, an e-mail documenting a job offer, and some medication records. (Exs. 1, 5,8-23.)

10. Once an application is complete, the EEC reviewer—here Ms. Carlos —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.

(Carlos.)

11. Ms. Carlos explained how she reviewed and weighed each factor. (Carlos.)

12. The fact that the incident was recent, about two years<sup>3</sup> ago, weighed heavily against the applicant. (Carlos.)

13. Daughter was 14 years old at the time. That meant she was a minor, and young, and most likely still living at home. (Carlos.)

14. The incident was violent and very serious. It was serious enough that it is categorized as a “presumptive” disqualification and not just a discretionary one. (Carlos.)

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<sup>3</sup> When Ms. Carlos wrote her report, the incident was two years old. By the time of the hearing, it was a little over three years old. However, in the context of this case, I do not find that changes the analysis .

15. Though she had been charged with two offenses, that did not really weigh for or against Daughter (since it was just one incident). (Carlos.)
16. Ms. Carlos did not put much stock into the rehabilitation documents. She explained the documents did show that Daughter was enrolled in therapy and took medications, but they did not indicate her current status or if there was a treatment plan in place.  
(Carlos.)
17. Ms. Carlos did not find the other information helpful. Daughter certainly had favorable references, but that was not particularly compelling. While her report card showed she was a straight-A student, that was just a snapshot of her at school and did not necessarily represent who she was at home. Finally, the e-mail regarding her job was simply an offer; it did not even say if she accepted it or what her hours were. (Carlos.)
18. Accordingly, Ms. Carlos found Daughter was not suitable. (Ex. 1; Carlos.)

**Additional information from the hearing**

19. At the hearing, the witnesses provided much more context into the incident and Daughter's growth since then.
20. Daughter spoke in detail about the mental health issues she was dealing with at the time of the incident. (Daughter.)
21. Back then, she was very depressed. She was isolated and had mood swings. The COVID pandemic exacerbated her isolation. She regularly expressed herself through anger and sadness. (Daughter.)
22. At some point she was prescribed anti-depressants. One caused her to disassociate "a

little.” (Daughter.)

23. There was nothing unusual about the day in question. Looking back, she thinks she just reached a breaking point over a lot of small things that had built up over time. She and her brother played around normally, but on that day, she just took it differently.

(Daughter.)

24. Her brother was older and physically stronger. When they were play fighting, he was in control and eventually went too far. She was very upset and wanted him to know that. But she did not strangle him, and certainly did not cause him to lose consciousness.

(Daughter.)

25. She became frustrated and ran to her room. She had a box cutter that she had purchased months before which she used for crafting. She grabbed it without really planning what to do with it. (Daughter.)

26. At that point, her brother had followed her back to her room. He must have seen her with the box cutter because he came after her to take it out of her hands. In the struggle, he cut himself. (Daughter.)

27. About a month after this incident, she had a suicide attempt. She was hospitalized. After that, she started participating in a lot of therapy. She had a one-on-one therapy, met with a psychiatrist, and participated in family sessions. She did this for 2-3 years.

(Daughter.)

28. She got a lot out of therapy including learning how to regulate her emotions. Now, she is careful about what she says or does, thinking first how it might affect others. She

- tries to put herself in someone else's shoes before she takes offense. She always remembers to "never attribute to malice what you attribute to ignorance." (Daughter.)
29. She was prescribed medications. Over time, the doctor weaned her off them because she was able to manage her emotions without them. (Daughter.)
30. Today she is in 12<sup>th</sup> grade. She gets good grades. She is involved in many extracurricular activities. She has a part-time job on the weekends and hopes to work full-time in the summer. She is also hoping to go to college. (Daughter.)
31. She is closer with her brother today than a few years ago. They do a lot of things together. (Daughter.)
32. Son disputed some of the facts from the police report. He explained that he and Daughter were play fighting. However, this night, it got a little out of hand and Daughter became particularly agitated. She tried to put him in a headlock, but she did not strangle him and he never lost consciousness.<sup>4</sup> (Son.)
33. At some point, Daughter went to her room. Son decided to follow her to see how she was. When he got to her room, he saw she was holding a box cutter. She was "hesitant." He approached her to take it out of her hands. He succeeded, but in the struggle, cut his hand. (Son.)
34. He said he had never seen Daughter like that before or since. She never had a pattern of outbursts. Since this time, they get along well and do things together. She also gets

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<sup>4</sup> Given that he remembers the entire incident and described it in detail similarly to Daughter, I credit him that he did not lose consciousness and the police report was inaccurate.

along well with her other siblings, all of whom are younger than her. He concluded by saying this incident was definitely out of character for her. (Son.)

35. Several character witnesses, who know J.C. and her entire family well, testified in support of Daughter. They were aware of the incident. They all agreed it was out of character for Daughter and certainly have not seen her act that way since the incident.

(Friend 1, Friend 2.)

36. Friend 2 also works at J.C.'s daycare. She says Daughter has volunteered there before and is great with the kids. She looks out for young kids in general, not just at the daycare but with her brothers too. (Friend 2.)

37. J.C.'s mother was aware of the incident, though not present that night. She helpfully explained how much Daughter's personality has changed since that time. Before, Daughter was very unsocial and kept to herself. She was quiet and hard to speak to. Now, she is a different person. She is much more social and her interactions are more positive. (Mother.)

38. Husband concurred. Although present in the house the night of the incident, he only saw the aftermath. Since the incident, Daughter has changed a lot. He acknowledged the mental health issues she was dealing with at the time. She was depressed and isolated. Some of that started before the COVID pandemic; but the pandemic exacerbated her isolation even more. (Husband.)

39. Daughter was prescribed medications for depression and saw several therapists. Eventually, she began to feel and act better. She has better coping skills now. She has

better avenues for her anger or frustration. Because of family therapy, J.C. and Husband are also more aware of their role in Daughter's mental wellbeing, and they learned what they can do to make things better for her. (Husband.)

40. She was properly weaned off her medications and does not need them now. (Husband.)
41. He knows Daughter deeply regrets what happened. She sincerely does not want something like that to ever happen again. (Husband.)
42. J.C. testified last and filled in some blanks. Daughter had been diagnosed with major depressive disorder. At the time, the doctors told J.C. it could cause "sharp anger" but that Daughter could also outgrow it. (J.C.)
43. Daughter asked to be homeschooled because she would be so overwhelmed she did not want to go to school. She and Husband allowed it, but it furthered Daughter's isolation. They changed their minds and, three days before the incident, they told Daughter she had to go back to school. J.C. thinks this played a big role in Daughter's anger the day of the incident. (J.C.)
44. She and Husband did everything they could to get Daughter help. At one point she was seeing a therapist twice a week, plus a psychiatrist and family therapist most weeks. Daughter took a lot from therapy and eventually did get better. Her last appointment was in January 2024. By then, the psychiatrist had weaned her off medications. (J.C.)
45. Before, Daughter was not social and did not like to talk about anything. Now, she expresses herself often. She has learned to stop the "build-ups" that would lead to

outbursts. (J.C.)

46. She and Husband also learned how to better handle situations and articulate things productively. They learned they were pressuring Daughter and stressing her out. Now they give her space, which has helped. They learned how to be better parents, which makes Daughter feel safe. (J.C.)
47. Daughter is a straight-A student. She works. She's responsible. She gets along well with her siblings. (J.C.)

### DISCUSSION

When an applicant has a potentially disqualifying background, EEC conducts a review to determine whether to grant or deny a childcare license. *See* 606 Code of 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." 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.

EEC's background check process is detailed. A common disqualifying event is a prior criminal conviction or simply a criminal charge. Different convictions and charges may result in different categories of disqualification: automatic, presumptive, or discretionary. *See* 606 Code

Mass. Regs. § 14.10. It is not unusual for EEC to deny an applicant a license based on 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. The conviction itself is typically enough corroboration that the conduct occurred. *Id.* However, sometimes the Department's denial is based on mere 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 non-convictions can be proper, but only under certain circumstances, e.g. there is other corroborating information such as an admission. *Id.*

On balance, based on the information it had at the time, I understand why the Department found Daughter was not suitable. Here, the Department did not just adopt the police report without more. Rather, the police report contained statements by Daughter's family that supported the charges; Daughter's candidate statement corroborated some details, such as the fact that she and her brother were fighting; there was no dispute her brother suffered a genuine injury; and there was no doubt Daughter had been dealing with mental health issues and it was unclear whether her symptoms had fully abated or been treated by the time J.C. submitted her application. Without more, this provided an adequate basis to find Daughter was not suitable.

"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." *EEC v. Berroa-Abad*, OC-25-0009, 2025 WL 2365553 (Div. Admin. Law Apps. July 2, 2025). Here, Daughter's charges were dismissed, so they alone do not establish what happened. Given the information developed at the hearing, I do not find that she acted in a way consistent with her charges. In fact, it is not clear she acted criminally at all.

First, the police report makes it seem as if Daughter was more aggressive, overpowered her brother, and continued to go on the offensive—strangling him into unconsciousness and then stabbing him with a box cutter. But they both described a different scenario at the hearing, which I credit. They explained they were play fighting and Son took it too far. Frustrated, Daughter ran to her room. Given that Son was older and physically stronger than Daughter, this explanation makes sense and I do not believe Daughter attacked her brother.

Second, the allegation that Daughter strangled her brother to unconsciousness is unfounded. The only evidence of this is from the police report that stated her brother did not know how long Daughter had her arm around his neck because “he lost consciousness.” At the hearing, he and Daughter both denied that happened. Indeed, it is hard to square Son’s explanation of what happened at the hearing with the allegation that he lost consciousness. In his version of events, he was more aggressive and got the best of Daughter. He was able to recount everything that happened, consistent with how Daughter described it. If he told the police he lost consciousness, that seems to have been an exaggerated statement, or perhaps even a vindictive one; but it does not appear to have been true.

Third, the charge that Daughter stabbed Son with the box cutter is also not borne out. Both agreed that what really happened was that Son cut himself when he tried to take the box cutter out of Daughter’s hands. Daughter did grab the box cutter in the first place, so it would be reasonable to assume she intended to use it. But she explained she did not really think about what, if anything, she was going to do and Son described her as “hesitant.” Also, she did not seek him out; Son followed her to her room.

Therefore, I am not convinced Daughter acted criminally. She and Son were play

fighting, when things got out of control. But she did not strangle or stab him. And regardless of the charges, the reality of what happened is very different from the situation EEC believed occurred when it reviewed the application. If the basis for EEC's denial was that Daughter committed the charged criminal conduct in the way described in the police report, the evidence at the hearing belies that conclusion.

Also, the Department was rightly focused on Daughter's mental health issues. Whatever conclusions the Department drew about her conduct that night, it had legitimate concerns that she had serious mental health issues that may have made her an unstable household member, capable of impulsive violence. But digging deeper into the evidence, Daughter's mental health issues did not cause her to be violent. If anything, they made her more a risk to herself than others. She very much needed help, and she got it. Her supportive parents found her a therapist and psychiatrist who helped Daughter learn to cope with her negative emotions. She actively engaged in therapy, going multiple times a week for several years. The parents themselves participated in therapy and improved how they interact with Daughter.

The intervention worked. Daughter was able to wean off medication and graduated from therapy. Today, she is a mature, insightful and responsible young adult. She gets excellent grades, has a steady job, and participates in many extra-curricular activities. She gets along well with all her siblings, older and younger. Others have noticed positive changes too. Before she was isolated and hard to speak to; now she is more social and open about her feelings. Thus, the evidence at the hearing showed Daughter's mental health issues have been treated and behind her. Whatever mental health issues she had at 14 are no longer present so that she poses no risk to the safety of children in her mother's care.

**CONCLUSION AND RECOMMENDED ORDER**

I find that J.C. has proven by clear and convincing evidence that her daughter is a qualified household member. I recommend EEC reverse its decision.

SO ORDERED.

Date: November 19, 2026

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

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Eric Tennen  
Administrative Magistrate