

COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

Rubi Quezada,
Petitioner

v.

Docket No. OC-26-0103

Department of Early Education and Care,
Respondent

Appearance for Petitioner:

Rubi Quezada, *pro se*; Yeudi Valdez

Appearance for Respondent:

Nicole Munroe, Esq.

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF RECOMMENDED DECISION

Department of Early Education and Care (EEC) determined that husband of educator of family child care was unsuitable. It is recommended that husband be found suitable.

RECOMMENDED DECISION

The petitioner, Rubi Quezada, appeals EEC's determination that her husband is unsuitable and may not be on the premises of her family child care.

I held a hearing on July 22, 2026, which I recorded. Miss Quezada represented herself, along with her husband, Yeudi Valdez. Both testified. Anthony Pettigrew, an EEC investigator, testified for EEC.

I admitted 16 exhibits. Both parties closed orally at the end of the hearing.

Findings of Fact

1. Miss Quezada runs a family child care. At the time of the incident on May 27, 2025, her days and hours of operation were Monday through Friday from 6:00 a.m. to 4:00 p.m.

(Quezada testimony)

2. Miss Quezada and Mr. Valdez are married to each other. They live with their 6-year-old son and her 18-year-old daughter. (Quezada testimony)

3. Mr. Valdez, who was 37 at the time of the incident discussed below, is a truck driver. He generally leaves for work at 3:00 a.m. and returns home at 6:00 p.m. He has no or almost no interaction with the children in Miss Quezada's child care program. (Valdez testimony)

The incident on May 27, 2025¹

4. On or before May 26, 2025, Miss Quezada received a text message from her friend, a person whom Mr. Valdez did not want to text her and of whom Mr. Valdez was possibly jealous. (Quezada and Valdez testimony)

5. Miss Quezada and Mr. Valdez argued orally and loudly about the text message. He grabbed her cell phone. Before or after he did so, they engaged in pushing each other. Miss Quezada reached for her phone, which Mr. Valdez had, and Mr. Valdez's hand came into

¹ I find these facts, rather than the narrative in the police report, for reasons in the Discussion below.

contact with Miss Quezada's hand. At worst it was a slap; at best, it was a push. (Quezada and Valdez testimony; Ex. 2)²

6. At some point during the argument, Mr. Valdez punched a wall and put a hole in it. (Quezada and Valdez testimony; Ex. 2)

7. Someone called the police, possibly a neighbor. Miss Quezada, Mr. Valdez, and Miss Quezada's daughter did not call. (Quezada testimony; Ex. 16)

8. On May 27, 2025, shortly after midnight, Worcester police officers responded to Miss Quezada and Mr. Valdez's home. (Ex. 2)

9. The police arrested Mr. Valdez for assault and battery on a family member and intimidating a witness. (Ex. 2, p. 2)

10. The police found Miss Quezada's cell phone on Mr. Valdez's person. (Ex. 2)

11. Mr. Valdez cried when he was arrested. (Quezada testimony)

12. Miss Quezada declined medical attention. (Ex. 2)

13. After he was released, Mr. Valdez apologized to Miss Quezada more than once. (Quezada testimony)

The incident according to the police report

14. According to a police report, Miss Quezada told the police the following: She and Mr. Valdez had an argument. He took away her cell phone to keep her from calling for help (presumably referring to calling the police for help). She tried to get her phone back and they ended up pushing each other. Mr. Valdez slapped her hand to keep her from getting her phone

² EEC's position is that Mr. Valdez slapped Miss Quezada's hand and that the argument involved pushing. That is the extent of the violence, according to EEC.

back. He punched a wall and put a hole in it. She was scared at Mr. Valdez's behavior. Her teenage daughter had called the police because Mr. Valdez had Miss Quezada's cell phone and would not give it back (not because of the argument or slap). (Ex. 2; Quezada testimony)³

15. According to a police report, Mr. Valdez told the police that the argument with Miss Quezada never got physical. (Ex. 2)

Legal developments after the arrest

16. On May 27, 2025, Mr. Valdez was charged with assault and battery on a family member, a misdemeanor. (Ex. 3) Although Mr. Valdez was arrested for two criminal offenses, including intimidating a witness (Ex. 2, p. 2), he was charged with only that one offense. (Ex. 3 (listing only one charge; pp. 1 and 3: referring to only one count; p. 4: "No. of counts / 1")

17. On November 19, 2025, the single charge of with assault and battery on a family member was dismissed at the Commonwealth's request. (Exs. 1, 3) The circumstances of and reason(s) for the dismissal are not in the record. (Quezada and Pettigrew testimony) However, the charge was not dropped at Miss Quezada's request, according to the District Court docket sheet. (Ex. 1 (box for "Request of Victim" is unchecked))

EEC's involvement

18. A Criminal Offender Record Information (CORI) check revealed the charge against Mr. Valdez of assault and battery on a family member. A [Statewide Applicant Fingerprint Identification Services](#) (SAFIS) check revealed that charge and, on the same date, a charge

³ Mr. Pettigrew testified, "I had police reports which detailed several incidents of violence" apparently referring to one slap and people pushing each other as several incidents of violence. If Mr. Pettigrew had "reports" in the plural, they were not offered as exhibits.

against Mr. Valdez of intimidating a witness. (Ex. 1) (As stated above, Mr. Valdez was arrested for intimidating a witness, but was not charged with it.)

19. The dismissed charge of assault and battery on a family member against Mr. Valdez came to EEC's attention, probably through Ms. Quezada's application to upgrade her family child care license (Ex. 15), which entailed background record checks of people regularly on the premises of the child care program, such as Mr. Valdez. (Exs. 9, 11)

20. As part of a review application, Mr. Valdez submitted two reference letters. One reference called him "responsible and dependable." (Ex. 7) One reference said that Mr. Valdez "exhibits exemplary moral Character and Integrity" and called him honest, responsible, respectful, and trustworthy. (Ex. 8)

21. On January 13, 2026, Mr. Pettigrew wrote about Mr. Valdez's candidacy. The report listed the second supposed charge against Mr. Valdez of intimidating a witness. (Ex. 1, p.1) It is unclear how much this second supposed (but ultimately nonexistent) charge against Mr. Valdez influenced EEC's decision. Mr. Pettigrew's report listed the second charge, referred three times to "charges" in the plural, but did not discuss it. However, Mr. Pettigrew did testify about Mr. Valdez's keeping Miss Quezada's cell phone away from her. (Pettigrew testimony)

22. In his report, Mr. Pettigrew stated, "There does appear to be a relationship between the Candidate's criminal history to their ability to care for children." (Ex. 1)⁴

23. In his report, Mr. Pettigrew also called the assault and battery charge "serious" and "appear[ing] to be serious." Mr. Pettigrew found Mr. Valdez unsuitable "[g]iven the totality of

⁴ It is unclear what Mr. Pettigrew meant because Mr. Valdez did not care for children in the day care program.

the circumstance,”⁵ the “seriousness and recency of the charges,” and “the potential for significant risk to children.”⁶ (Ex. 1)

24. According to Mr. Pettigrew’s report, Mr. Valdez “admitted the infraction occurred and admitted punching a wall.” (Ex. 1)⁷

25. Mr. Pettigrew weighed the eight statutory factors. (Pettigrew testimony)

26. Mr. Pettigrew considered the incident “very serious” because Mr. Valdez kept Miss Quezada from calling for help. It was also serious because it involved “violence and punching a hole in the wall. (Pettigrew testimony; 1:26)

27. On January 20, 2026, EEC found Mr. Valdez not suitable and notified him of the determination. (Ex. 10)

28. Assuming that Mr. Valdez received the EEC Suitability Determination on January 20, 2026, Mr. Valdez timely requested a hearing on February 13, 2026. (Ex. 13)

29. To allow Miss Quezada to keep on operating her family child care program, Mr. Valdez moved out of his home with Miss Quezada. (Quezada testimony)

Inquiry of an unnamed second EEC investigator

30. On February 12, 2026, an EEC investigator (not Mr. Pettigrew) went to Miss Quezada and Mr. Valdez’s home, and interviewed them and Miss Quezada’s daughter. (Ex. 16) The

⁵ It is unclear what Mr. Pettigrew meant.

⁶ This went unspecified during the hearing and the rest of the record.

⁷ It is unclear how and when Mr. Valdez admitted having committed an infraction, presumably the assault and battery charge. On December 8, 2025, Mr. Valdez signed a review application in which he stated that he and his wife had had an argument and he had punched a wall. (Ex. 5, p. 2)

record does not reveal if the investigator interviewed the three people separately and thus if their narrative was more likely to be accurate.

31. The EEC investigator, who worked in a different unit of EEC than Mr. Pettigrew, went to the home because a household member (Mr. Valdez) of a family day care provider (Miss Quezada) had been arrested and the provider had not informed EEC, as required. (Ex. 16)

32. Miss Quezada told the investigator the following: She and Mr. Valdez got into an argument about her cell phone and some text messages that she had been receiving. Mr. Valdez wanted to see her cell phone, grabbed it, and would not give it back. She tried to grab her cell phone back and he pushed her hand away. He also punched a wall. Her teenage daughter had been in her room during the incident and did not call the police. A neighbor may have heard the argument and called the police. She was surprised when the police knocked on her door. She did not want Mr. Valdez arrested, was surprised when the police arrested him, and did not understand why they did so. The incident was isolated. Mr. Valdez has never laid a hand on her. (Ex. 16)

33. Miss Quezada did not report the incident to EEC because she did not know that she had to report an incident that occurred in her private life when her program was not operating. (Ex. 16; Quezada testimony)

34. Mr. Valdez is not at home during the day care's hours of operation. He is a truck driver, leaves before the day care program begins, and returns home after the program has ended for the day. (Ex. 16; Valdez testimony)

35. Mr. Valdez told the investigator the following: He and Miss Quezada argued about her cell phone, he grabbed it from her, she tried to get it back, and he pushed her hand away.

He did not strike her. He did punch a wall. No one from their household called the police. (Ex. 16)

36. Miss Quezada's teenage daughter told the investigator the following: She did not have much to report about the incident. She was in her room the entire time. She did not call the police. (Ex. 16)

37. The investigator contacted the parent of a child in Miss Quezada's family child care program. The parent had no concerns or issues to raise about Miss Quezada's care. (Ex. 16)

38. EEC did not attempt to discipline Miss Quezada for her failure to report the police's presence on her premises or Mr. Valdez's arrest. That failure was not part of this case against Miss Quezada. This report did not go to Mr. Pettigrew's unit, the background record check unit. (Representation of EEC at hearing)

Discussion

I find the facts above, rather than the narrative in the police report, because (1) Miss Quezada and Mr. Valdez appeared, testified under oath, were subject to cross-examination and my questions, and were credible, whereas the officer who wrote the report did not appear to testify and be questioned under oath. (2) Police reports, like any report, can record information incorrectly. (3) Miss Quezada's and Mr. Valdez's narrative of the incident is consistent with what they told an unnamed EEC investigator (Ex. 16), as related above. Although the circumstances are unclear, the unnamed EEC investigator may have appeared at their home without notice and interviewed them, not giving them time to invent and coordinate a story. Miss Quezada and Mr. Valdez *might* have invented the story, and might have done so earlier, such as before appearing in court. However, the way they spoke about the reason for their

argument, and their hesitation to speak about it, indicated some embarrassment, which lent credibility to the reason in my eyes.

In its closing argument, EEC argued that Miss Quezada's statements to the police were fresh and reliable on May 27, 2025. Nonetheless, I find upon the preponderance of the evidence, that is, it is more probable than not, that the facts were as Miss Quezada and Mr. Valdez testified. *Continental Assurance Co. v. Diorio-Volungis*, 51 Mass. App. Ct. 403, 409 n.9 (2001).

To determine suitability, I assesses eight factors under the clear and convincing standard. 606 CMR 14.12(2)(e) and (f).

1. Time since the incident. The incident was fairly recent. This factor weighs against Mr. Valdez's candidacy.

2. Age of the candidate at the time of the incident. Mr. Valdez was 37 years old, that is not an immature youth. This factor weighs against Mr. Valdez's candidacy.

3. Seriousness and specific circumstances surrounding the incident. The physical violence in this incident involved the following: at worst, Mr. Valdez's slapping Miss Quezada's hand (not her face, which would have been worse) and, at best, his pushing her hand away; Mr. Valdez's pushing Miss Quezada's body (but not hard enough to make her fall or hit herself against, say, a wall, which would have been worse); and damage to property, Mr. Valdez's punching a hole in a wall. Mr. Quezada's conduct was not exemplary and is a cause for concern, but his conduct was not serious, and did not cause injury or pain to Miss Quezada.

In its closing argument, EEC called the incident extremely concerning, and noted that children were present. The incident was less serious than it may have seemed at one time. The

presence of children in the home during a less serious incident is not significant. This factor weighs in Mr. Valdez's favor.

4. Relationship of the incident to the ability of the candidate to care for children. Mr. Valdez did not argue with children: his son or Miss Quezada's daughter. Rather, he argued with his wife about a personal matter that Miss Quezada and Mr. Valdez will probably wish to avoid in the future, considering its consequences: an arrest, disruption to their family, and Miss Quezada's license being endangered. Before the incident, Mr. Valdez was generally not present in their home during the child care's operation and did not take care of children. The relationship of the incident to Mr. Valdez's ability to care for children is attenuated. This factor weighs in Mr. Valdez's factor.

5. Number of criminal offenses or findings of abuse/neglect. Mr. Valdez was charged with one offense. This factor weighs in his favor.

6. Dispositions of criminal offenses and findings of abuse/neglect. The single charge against Mr. Valdez was dismissed at the Commonwealth's request. The circumstances of the Commonwealth's request are unknown. The Commonwealth might have dismissed the charge because, and I speculate here, a case of assault and battery, primarily consisting of a defendant's pushing a victim's hand, is weak. This factor weighs in his favor.

7. Relevant evidence of rehabilitation or lack thereof. Miss Quezada and Mr. Valdez both testified credibly that this incident was isolated; she testified that Mr. Valdez has never laid a hand on her. He cried when he was arrested and later apologized to Miss Quezada more than once; these acts indicate his remorse. (Quezada testimony) Mr. Valdez had no criminal record before the incident and has had no criminal charges in the 14 months since. (Ex. 1) In its

closing argument, EEC argued that not enough evidence exists that this kind of incident would not recur. However, I believe that Mr. Valdez, if he needed rehabilitation, has rehabilitated himself. This factor weighs in his favor.

8. Other relevant information, including information submitted by the candidate. Mr. Valdez submitted two positive reference letters (Exs. 7 and 8), which the EEC found weighed in his favor. (Pettigrew testimony) The parent of a child in Miss Quezada's child care program had no issues with the program, presumably after learning about Mr. Valdez's arrest. (Ex. 16) This factor weighs in Mr. Valdez's favor.

Overall, Mr. Valdez has proved by clear and convincing evidence that he is a suitable candidate.

I need not and do not count the factors and see whether factors in a candidate's favor number more or less than factors weighing against the candidate. In this case, the most important factor is the seriousness of the offense, which I find much less serious than does EEC. Also important in my decision is that Mr. Valdez was not convicted of the charge. The Commonwealth requested that the charge be dismissed, rather than Miss Quezada doing so. I suspect, but do not know, that the Commonwealth's request reflected the difficulty of proving that a slap during a tussle was an assault and battery. Another important factor is that Mr. Valdez regrets his less than serious behavior, does not have a history of it, and has not repeated it.

I recommend that EEC reverse its determination that Mr. Valdez is unsuitable for these additional reasons: Its determination of unsuitability may have been based on SAFIS's report that Mr. Valdez had been charged with two criminal offenses, whereas he was actually charged

with one. Its determination of unsuitability may have been based on Mr. Valdez's having committed multiple acts of violence, which Mr. Pettigrew testified about, whereas he engaged in pushing with Miss Quezada, and at worst, slapped her hand; he may have only pushed her hand. Many people would not define these acts as violence. Mr. Valdez did not admit having committed a criminal offense, although EEC was under the impression that he had done so. Although committing property damage is a concern, Mr. Valdez may have realized that he should redirect his anger away from people; damaging property is less serious than injuring people. And EEC had in hand a report from its investigator that the incident was less serious than the police report. It chose to believe the police report, but perhaps should rely instead on its own investigator.

In addition to recommending that EEC find Mr. Valdez suitable, I urge it to do so speedily to allow Mr. Valdez to return to his home.

Conclusion and Order

I recommend that EEC determine that Mr. Valdez is suitable and that he may be present on the premise of Miss Quezada's family child care program, which is also his home.

Dated: July 30, 2026

/s/ Kenneth Bresler

Kenneth Bresler
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer St., 4th Floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala