

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Berkys Gonzalez-Rosado,
Petitioner,

Docket No.: OC-25-0522

v.

Department of Early Education and Care,
Respondent.

Appearances:

For Petitioner: Berkys Gonzalez-Rosado, pro se
For Respondent: Ryan Foreman, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF RECOMMENDED DECISION

The Department of Early Education and Care denied Ms. Gonzalez-Rosado's application for a childcare license. Its decision was based on a 2019 incident involving her husband, a household member. He physically disciplined his son with a belt. While the Department may have been right in initially finding Mr. Carela was not a suitable household member, the Department should reconsider its decision based on new evidence from the hearing.

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 February 17, 2026, I conducted an in-person hearing. The Department presented one witness, Edward Riggs, the background check reviewer who conducted the Petitioner's discretionary review. The Petitioner

testified on her own behalf. Also testifying for her were her husband, William Carela, their son¹, and their friend, Elizabeth Castro. I entered exhibits 1-8 into evidence. The parties submitted closing statements at which time I closed the administrative record.

FINDINGS OF FACT

1. Ms. Gonzalez-Rosado applied for a family childcare license in 2025. (Ex 1.)
2. When she applied, EEC began a background check. A background check looks at, among other things, any prior criminal record and/or involvement with the Department of Children and Families (“DCF”). (Riggs.)
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). (Riggs.)
4. The background check applies to the licensee and any “household members.” In this case, Ms. Gonzalez-Rosado’s husband, William Carela, is a household member. (Riggs.)
5. As part of the background review, EEC found information that triggered its discretionary review process: an April 2019 incident involving Mr. Carela and their son. (Ex. 1; Riggs.)

April 2019 Incident

6. On April 3, 2019, their son showed up to school with welts and swelling on his legs. He reported that his father got furious when he learned that his son had received detention the day before. His father hit him with a belt 10 times. Their son also said there were

¹ The incident at issue took place when her son was 10 years old. Today he is 16 years old. Because he is still a juvenile, I do not refer to him by name but rather as “their son.”

- two other times in the past when his father disciplined him with a belt. (Ex. 1.)
7. DCF and the police were contacted. (Exs. 1, 4, & 6.)
 8. Eventually, Mr. Carela was charged with one count of assault and battery with a dangerous weapon (his belt) and one count of assault and battery. The matter was dismissed in December 2019. (Ex. 3.)
 9. DCF also opened an investigation. It ultimately supported allegations of physical abuse against Mr. Carela. (Ex. 4.)

Discretionary Review Process

10. As part of the discretionary review process, Mr. Carela submitted a candidate statement. He took responsibility for his actions and explained what happened:

I mistakenly thought that was a way of correction. However, I now learned that physical aggression is not a way of correction, it is abuse. But I was able to understand this, only after completing a Parenting Course in September 2019. In this program I was able to learn to discipline my children with strategies that do not involve any kind of harm.

I affirm that, since that incident back in 2019, I have never attempted or done any type of physical or verbal aggression of any type. I deem myself as a man who represents no harm to any child and that I am a befitting candidate to grant my house to my wife's purpose of instituting a home daycare, ensuring the well-being of each child present.

(Ex. 5.)

11. He also submitted two letters of support. One was from his employer who explained how great and dependable an employee Mr. Carela is. The other was from Elizabeth Castro, the wife of the pastor at his church. She also wrote a glowing recommendation

attesting to his good character, care for others, and charitable nature. (Ex. 7.)

12. Neither letter indicated that the authors were aware of the incident at issue in this appeal. (Ex. 7.)
13. Finally, Mr. Carela submitted a certificate from the parenting class he mentioned in his statement. It simply said he graduated from “Parenting Journey I (June 6th to September 19th, 2019).” (Ex. 8.)
14. Once the application is complete, the EEC reviewer—here Mr. Riggs—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; Riggs.)

15. Ms. Riggs explained how he weighed the different factors. (Riggs.)
16. This incident was obviously very serious. Mr. Carela physically hit a child in his care. He was an adult with appropriate decision-making abilities. The incident was recent. Moreover, there was a DCF finding of abuse against him. All these factors weighed against Mr. Carela. (Riggs.)
17. On the other hand, Mr. Riggs conceded this was just one incident. And there was some information regarding rehabilitation and positive support letters. (Riggs.)

18. On balance, Mr. Riggs thought the negative factors outweighed the positive factors, especially given the overall seriousness of the incident. (Riggs.)
19. I pointed out to Mr. Riggs that the underlying facts of this incident were not going to change, whether evaluated five years ago, today, or five years from now. Thus, I asked him what more, if anything, could Mr. Carela provide that might one day change the result.
20. Mr. Riggs explained that he wanted to see more evidence of rehabilitation. For example, while Mr. Carela did participate in a class, there was no information about that class, *e.g.*, how often did the class meet, what was discussed, what he learned from it, etc. (Riggs.)
21. Mr. Riggs also acknowledged that Mr. Carela took responsibility for his actions in his candidate statement, but he did not say enough about the incident or what he has done since to assuage Mr. Riggs's concerns. (Riggs.)
22. Finally, Mr. Riggs said that the role the candidate played in the licensing scheme, *i.e.*, a household member vs. a caregiver, did not make a difference to him in his assessment of suitability. (Riggs.)²

Evidence at the hearing

23. Ms. Gonzalez-Rosado presented additional information at the hearing, not available in

² However, in a different case, Mr. Riggs testified that he did consider the role the candidate played. *EEC v. Y.A.*, OC-25-0402 (Div. Admin. Law App. Dec. 12, 2025) (Mr. Riggs “explained that he considers the role the candidate has in relation to the daycare, *e.g.*, providing direct care to children, simply being present on the premises, etc.”).

the review process, that spoke to many of Mr. Riggs’s concerns.

24. At the time of the incident, Mr. Carela was living alone with their son. Ms. Gonzalez-Rosado was living in the Dominican Republic with their daughter. (Carela; Gonzalez-Rosado.)
25. For a variety of reasons, Mr. Carela was under a lot of stress and pressure. (Carela.)
26. Their son was almost 11 years old. He had been getting in trouble more frequently at school. That week, Mr. Carela was called to their son’s school three times. One of the incidents involved their son and some of his friends flooding the school bathroom. The last incident involved their son disrespecting his teacher. (Carela.)
27. Mr. Carela felt their son had to be disciplined. He disciplined him the only way he knew how—physically and with a belt. (Carela.)
28. Mr. Carela, Ms. Gonzalez-Rosado, and Ms. Castro are all of Dominican descent. (Carela; Gonzalez-Rosado, Castro.)
29. At the time, Mr. Carela believed this type of punishment was appropriate. He explained that in his culture, that was how kids were disciplined. He did not know differently. (Carela.)
30. Ms. Gonzalez-Rosado and Ms. Castro both confirmed this form of discipline is common in the Dominican Republic. (Gonzalez-Rosado; Castro.)
31. When this incident occurred, their son was taken into DCF custody and put in a foster home. Mr. Carela was able to visit him only once a week. DCF also required him to take a parenting class. (Carela.)

32. The parenting class was a revelation for him. He attended three-hour classes, once a week for three months. The class taught him many things. (Carela.)
33. It taught him that his actions towards their son were wrong. He learned that physical discipline is never acceptable and not effective. He also learned alternative forms of discipline, such as talking with him or taking away a thing of value, like a cell phone. (Carela.)
34. At some point, DCF allowed their son to return home and live with Mr. Carela. Eventually, Ms. Rosado-Gonzalez and their daughter came to the U.S. (around 2021) and they all lived together. Mr. Carela never again used physical discipline against any of his children. (Carela; Rosado-Gonzalez.)
35. In his testimony, he expressed sincere remorse for the harm he recognized he caused their son. Even though his intent was to do something to put his son on the right track, he understands now he was extremely wrong in how he chose to do that. (Carela.)
36. Today their son is an excellent child, and their relationship has never been better. He is a good student. He rarely requires discipline. When he does, Mr. Carela uses the techniques he learned from his class. (Carela.)
37. Mr. Carela is currently working as a supervisor for a packing company. His hours are from 8:00 am to 4:00 pm, Monday through Saturday. (Carela.)
38. Their son testified and corroborated Mr. Carela's assessment of their relationship. He believes his dad was trying to teach him a valuable lesson, even if the way he did it was harmful. Since that incident, his dad has never physically disciplined him again. Today

they get along very well. (Son.)

39. Ms. Gonzalez-Rosado was not living with Mr. Carela or their son when the incident occurred. She was generally aware that Mr. Carela used a belt to physically discipline their son. At the time, she also understood that to be an acceptable form of discipline from her culture. Today, however, she is in lockstep with her husband—physical discipline is never acceptable. She learned a valuable lesson through this incident too. (Gonzalez-Rosado.)

40. Ms. Castro provided strong character evidence for Mr. Carela. She explained he has been a member of her husband’s church for about five years. He began attending around the time this incident occurred. She was familiar with his actions in this case and the steps he took to regain custody. (Castro.)

41. The family regularly attends church. Each family member participates in numerous activities with the church. Their son is an extremely active member of the church and she had nothing but extremely positive things to say about him. (Castro.)

42. She has observed the family together often and sees only love and support. (Castro.)

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, considering Mr. Carela admitted to the conduct, there is no dispute he inappropriately, physically disciplined their son. The discipline was so extreme that it left welts and marks visible the next day.³ Given the limited information available to Mr. Riggs within the application packet, he was right to conclude Mr. Carela had not shown by clear and convincing evidence that he was a suitable candidate.

Regardless, I must also evaluate the evidence in light of any additional evidence that came out at the hearing, and not simply what was known to Mr. Riggs at the time of his review. *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). Here Ms. Gonzalez-Rosado and Mr. Carela offered new evidence that placed Mr. Carela's actions into

³ A parent is allowed to physically discipline a child within certain parameters. It is permissible if, among other things, "the force used neither causes, nor creates a substantial risk of causing, physical harm (beyond fleeting pain or minor, transient marks), gross degradation, or severe mental distress." *Commonwealth v. Dorvil*, 472 Mass. 1, 12 (2015). That was clearly not the case here.

context and suggests the misconduct is not likely to repeat.

Mr. Riggs indicated that he had very little information about the parenting class. He agreed that graduating from that class was positive, but there was not enough information for it to weigh more in favor of Mr. Carela. Mr. Carela's testimony filled in some gaps. He provided details of the parenting class showing it was thorough and substantial. The class met three hours a week for three months. It covered topics related to discipline including alternatives to physical punishment. And it had a lasting impact on his disciplinary methods.

Mr. Riggs also acknowledged Mr. Carela took responsibility for his actions, which was good, but he felt Mr. Carela's statement was missing details of his insight. In his testimony, Mr. Carela demonstrated insight into his conduct, explaining why it was wrong. He was remorseful for the harm he caused their son. Without minimizing his conduct, he recognized it stemmed from a combination of stress and cultural norms. Ms. Gonzalez-Rosado and Ms. Castro corroborated that this form of discipline is common in the Dominican Republic, where all three are from. Mr. Carela learned that how he acted is contrary to how parents should appropriately discipline children. Since he took this class, he has put what he learned to use; he gave examples of how he has appropriately disciplined their son since the incident. Their son's testimony corroborated everything Mr. Carela said about his conduct after the incident.

Mr. Carela no longer believes physical punishment is appropriate, and his actions refraining from it show his testimony was sincere. It is commendable he has mended the harm he caused their son and that they now have a strong bond. At no point did he blame their son, even though he was rightly upset about their son's misbehavior at the time.

Finally, although Mr. Riggs said he did not take into consideration the applicant's role, in

other cases he has. *See, supra*, n.2. Indeed, the applicant's role should have some bearing on their suitability. *EEC v. De Oliveira Miranda*, OC-24-0046, 2024 WL 5055503, *13 (Div. Admin. Law Apps. Nov. 20, 2024). The evidence demonstrates that Mr. Carela's actions were isolated to his own child and occurred in the context of discipline. There is nothing to suggest Mr. Carela is generally violent to others, especially children, and that he was ever violent in any context other than disciplining his own child. Given his work hours, he should have little to no overlap with the children attending his wife's daycare. Moreover, because his own children will not be present at the daycare, there is no reason to believe he will be involved in any discipline even if he were around.

CONCLUSION AND RECOMMENDED ORDER

These facts are enough to prove by clear and convincing evidence that Mr. Carela is a suitable household member. I recommend EEC *reverse* its decision and grant Ms. Gonzalez-Rosado her license.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: April 3, 2026

Eric Tennen

Eric Tennen
Administrative Magistrate