

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Aida Santiago,
Petitioner,

Docket No.: OC-25-0452

v.

Department of Early Education and Care,
Respondent.

Appearances:

For Petitioner: Aida Santiago, pro se
For Respondent: Stephany Collamore, esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF RECOMMENDED DECISION

The Department of Early Education and Care (EEC) denied Aida Santiago’s application for a childcare license. Its decision was based on a 2017 incident in which the Department of Children and Families (DCF) substantiated abuse and neglect against her grandchildren. DCF made numerous findings against the children’s parents and found some of the allegations of neglect also applied to Ms. Santiago. However, after a hearing, Ms. Santiago presented ample evidence that DCF’s assessment of her conduct was inaccurate. Accordingly, EEC should find her suitable and approve her application for licensure.

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 December 18, 2025, I conducted an in-person hearing. The Petitioner testified on her own behalf. She also

called her son, Julio Vasquez. The Department presented one witness, Leah Abel, the background check reviewer who conducted the Petitioner's discretionary review. I entered exhibits 1-14 into evidence. The Petitioner made a closing statement at the end of the hearing. The Department submitted a written, closing statement on January 30, 2026, at which point I closed the administrative record.

FINDINGS OF FACT

1. Ms. Santiago applied for a family childcare license in 2025. (Abel.)
2. When she applied, EEC began a background check. A background check looks at, among other things, any prior involvement with the Department of Children and Families ("DCF"). (Abel.)
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.* § 14.10(6). (Abel.)
4. As part of the Petitioner's background review, EEC found information that triggered its discretionary review process: a November 2017 incident with DCF. (Exs. 1 & 2; Abel.)
November 2017 Incident
5. The November 2017 incident involved Ms. Santiago's grandchildren. (Ex. 2.)
6. Ms. Santiago's son is Julio Vazquez. Mr. Vazquez has two children with Michel Mercado. Michel Mercado's mother, the children's maternal grandmother, is Rosa Mercado. (Ex. 2; Vazquez.)
7. On November 7, 2017, Ms. Santiago brought her granddaughter to the emergency

- room (ER) after her daycare suggested she needed to see a doctor. The granddaughter was diagnosed with cellulitis due to poor management of her preexisting eczema and scabies. (Ex. 2.)
8. Once there, the hospital contacted DCF. The doctor explained that her condition was so bad it could only have resulted from neglect. Someone also reported that Ms. Santiago left her granddaughter there alone. (Ex. 2.)
 9. DCF opened an investigation. During its course, DCF learned that the grandchildren were being left at times with their maternal grandmother, Rosa Mercado, despite an active safety plan¹ that said that was not allowed. (Ex. 2.)
 10. DCF also documented that Ms. Santiago's grandson was ill. He was taken to the doctor and diagnosed with pneumonia and scabies. (Ex.2.)
 11. In a 51B² report, DCF supported allegations of abuse and neglect against the parents for failing to attend to their children's medical issues, leaving them with Rosa Mercado contrary to a safety plan, physical discipline, and other reasons. (Ex. 2.)
 12. DCF added both grandmothers to its findings. It appears not every allegation applied to Ms. Santiago. Rather, DCF specifically found she failed to bring her granddaughter to

¹ A safety plan is something put in place by DCF when caregivers agree to do, or refrain from doing, certain things to assure their children's safety. DCF has the power to enter into safety plans with caregivers only after an investigation has been opened (but it can occur before any allegations of abuse or neglect are substantiated). (Abel.)

² 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 doctor for her skin condition until at least three days after it was recommended, she left her granddaughter at the hospital without an adult, she violated the safety plan by leaving the grandchildren with Rosa Mercado, and she was also found to have neglected her grandson's medical conditions. (Exs. 1 & 2.)

Discretionary Review Process

13. As part of her response in the discretionary review process, Ms. Santiago submitted a candidate statement and two letters of support. (Exs. 3-6.)
14. In her statement, Ms. Santiago explained that she went to the daycare when they called because her son was unavailable. Per the daycare's suggestion, she took her granddaughter to the pediatrician, and then the hospital. At some point she had to go to work. She asked the nurse if it would be ok to leave because her son should be on his way and the nurse said yes. She added that, if the nurse had said that she could not leave, she would have stayed and called out of work. (Ex. 6.)
15. She later found out that, when her son arrived, they did not allow him to go up and see his daughter. (Ex. 6.)
16. The letters of support were extremely short and attested to Ms. Santiago's ability to care for children generally. They did not address the November 2017 incident. (Exs. 3 & 4.)
17. Once the application is complete, the EEC reviewer—here Ms. Abel—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; Abel.)

18. Ms. Abel explained how she weighed the different factors. (Abel.)
19. She agreed the incident was not that recent, but recent enough, that it did not weigh totally in Ms. Santiago's favor. (Abel.)
20. Because this occurred when Ms. Santiago was an adult, Ms. Abel would have expected a higher level of care for her grandchildren. She weighed this factor against Ms. Santiago. (Abel.)
21. Ms. Abel was greatly concerned with the seriousness and circumstances of the incident. She was particularly concerned that there appeared to be a DCF safety plan in place which Ms. Santiago did not follow. (Able.)
22. And, of course, Ms. Abel noted that untreated medical conditions are always serious. (Abel.)
23. Ms. Abel acknowledged this was just one incident, which favored Ms. Santiago, but the fact that DCF substantiated allegations of neglect weighed against her. (Abel.)
24. She did not see any evidence of rehabilitation. However, when asked what rehabilitation in this case might look like, she conceded it would consist of anything DCF may have asked Ms. Santiago to do, but she had no evidence that they did so in

this case. (Abel.)

25. She considered Ms. Santiago's candidate statement. But Ms. Abel was concerned that Ms. Santiago's statement made no mention of the children's medical conditions. (Abel.)
26. Finally, the support letters were positive but very short and did not mention details of the November 2017 incident. (Abel.)

Evidence at the hearing

27. Ms. Santiago and her son testified at the hearing and provided some new information about the incident.
28. Ms. Santiago ran a daycare for about 10 years before this incident. She stopped because she did not have enough children enrolled. (Santiago.)
29. Mr. Vasquez testified that in 2017 he and Michel Mercado were living together. However, Michel Mercado was arrested. Mr. Vasquez eventually left their apartment and went to stay with his mother and stepfather. The children were also staying there. (Vazquez.) This is the first of three versions regarding where the children were staying.
30. Ms. Santiago explained that, at the time of the incident, Mr. Vasquez was staying with her because he had lost his apartment and Michel was in jail. However, contrary to what her son said, she testified her grandchildren were staying with Rosa Mercado, not her. Even so, she did watch them for long stretches throughout the week and generally helped her son care for them. (Santiago.)
31. DCF spoke to Rosa Mercado the day after the November 2017 incident. Rosa Mercado told DCF that the children stayed with her on the weekends; she said the grandchildren

stayed with Ms. Santiago on the other days. (Ex. 2.)

32. Rosa Mercado also told DCF that she had tried to take her granddaughter to the doctor for her skin condition two days before the November 2017 incident (on a Wednesday) but was unable to get an appointment. (Ex. 2.)
33. It is not clear exactly where the children were staying on any given day. But the evidence supports a finding that they spent time with Ms. Santiago, even if they did not technically “reside” there every day.
34. With respect to the hospital visit, Ms. Santiago elaborated on what she said in her letter. The daycare called her (or her son) to say that her granddaughter needed to go to a doctor. Because her son was not available, Ms. Santiago went. She eventually took her granddaughter to the hospital at the pediatrician’s urging. She had not been planning on picking up her granddaughter that day, and still had to get to work. She emphasized that she spoke to the nurses at the hospital several times about whether it was okay for her to leave. (Santiago.)
35. She previously worked in a hospital and knows a child should not be left without supervision. But her son had said he was on his way and, again, the nurses said she could leave. In that context, she left her granddaughter in the hospital’s care and went to work. When she left, DCF was not yet involved. (Santiago.)
36. Mr. Vasquez tried to go to the hospital after work but it was too late. He also said he received a call from DCF while his daughter was at the hospital saying they were taking custody of her. In short, he was not allowed to pick up his daughter because DCF was

already involved. (Vasquez.)

37. After DCF issued the 51B, Ms. Santiago had a scheduled meeting with them. However, that meeting was cancelled. She did not talk to them again. She now knows the case was closed but could not explain when or how it happened, only that she did not have to do anything more. (Ex. 7; Santiago.)

38. With respect to a safety plan, Mr. Vasquez did not remember the details. He believed Michel Mercado may have been involved with DCF and had a safety plan with them. But it is not clear whether he, or especially Ms. Santiago, had entered into any safety plan at the time of the incident. (Vasquez.)

39. Ms. Santiago denied any knowledge of a safety plan. (Santiago.)

40. I find Ms. Santiago had not entered into a safety plan and was not aware of any limitations on where her grandchildren could stay.³ I also find that she was not in control of where her grandchildren stayed at the time; her son and Michel Mercado were. So, to the extent anyone was leaving the children with Rosa Mercado, it was not Ms. Santiago's decision.

41. Today Mr. Vasquez has full custody of his two children and the three of them live

³ There is no evidence that Ms. Santiago was previously under investigation, so it is hard to conclude she was bound by a safety plan. It seems more likely that either one or both parents were previously investigated by DCF, and they entered into a safety plan to not place their children in Rosa Mercado's care. If that is the case, it appears the parents were violating that safety plan. But there is no credible evidence that Ms. Santiago was a party to, or even knew about, this safety plan.

together. Ms. Santiago is involved in their lives and helps take care of her grandchildren when she can. She helps get them to the school bus, she takes them to appointments and sometimes cooks for the entire family. (Vasquez.)

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.* § 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, DCF's report provides some reliable evidence that Ms. Santiago may have been responsible for the findings of neglect against her. However, to what extent she was responsible is ambiguous.

The DCF report first faults many people, including Ms. Santiago, for neglecting her

grandchildren's medical needs. Although Ms. Santiago took care of the grandchildren sometimes, it is not clear if she was with them in the days leading up to this incident, so it is not obvious when Ms. Santiago was last able to assess their medical conditions. The DCF report faults Ms. Santiago for not taking her granddaughter to the doctor for three days after it was recommended.⁴ But in the same report, Rosa Mercado says she attempted to take her granddaughter to the doctor two days before the incident and could not get an appointment. That suggests Rosa Mercado was watching the grandchildren in the days leading up to this incident, not Ms. Santiago. On the other hand, the DCF report does confirm Ms. Santiago took her granddaughter to the doctor, and then hospital, the minute her daycare said there was a problem.

DCF also reported Ms. Santiago left her granddaughter at the hospital without supervision. Contrary to this allegation, Ms. Santiago's candidate statement explained that she was given permission by the hospital to leave her granddaughter there because she believed her son was on his way. Ms. Abel seems to have credited the DCF report and not Ms. Santiago's statement.

The DCF report also faults Ms. Santiago for violating a safety plan that the grandchildren not be left with Rosa Mercado. However, the DCF report contains no additional information about the safety plan, when it went into effect, or who it applied to. Ms. Able could not say much about this, other than DCF found Ms. Santiago was one of the people who violated the safety plan.

⁴ There is also no further information about this recommendation: who made it, to whom, about what, etc.

Whether Ms. Abel had enough evidence to draw the conclusions she drew, and then properly weighed that information against Ms. Santiago, is a close call. Regardless, I must now evaluate the evidence in light of any additional evidence that came out at the hearing, and not simply what was known to Ms. Abel. *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).

The evidence from the hearing establishes several things in Ms. Santiago's favor. First, there is no credible evidence that Ms. Santiago had entered into, or had any notice of, a safety plan prohibiting her grandchildren from staying with Rosa Mercado. By all accounts, this was the only investigation DCF had ever conducted into Ms. Santiago so she could not have been a party to a safety plan *before* this incident. It is highly likely the parents, or at least Rosa Mercado herself, had entered into a safety plan with DCF. But unless Ms. Santiago was aware of this—and there is no evidence she was—she should not be blamed if the parents violated this plan. Moreover, it is not even clear Ms. Santiago was in charge of making decisions about where the children resided on a day-to-day basis, so she should not be held accountable if the parents left the children with Rosa Mercado.

Next, Ms. Santiago credibly explained that she asked the hospital staff about leaving her granddaughter there alone because she reasonably believed her son would soon be there to pick her up. She would not have left if the hospital staff had told her to stay. It is hard to believe Ms. Santiago would leave her granddaughter alone if she did not think anyone was coming; it is even harder to believe she would do that without first speaking to hospital staff. She could not have known that, after she left, DCF would be called and/or that Mr. Vasquez would not be

available. DCF based its finding only on what someone from the hospital told them, but that was the extent of their “investigation” into this allegation. It is likely whoever reported that to DCF was not aware Ms. Santiago spoke with someone about leaving. Overall, Ms. Santiago’s explanation makes more sense about what really happened.

Finally, DCF blamed Ms. Santiago as one of the caretakers who neglected the children’s medical needs. There is no dispute her granddaughter’s skin condition was serious enough that it required a visit to the ER; nor is there any dispute that her grandson was diagnosed with pneumonia and scabies. What is unclear is how much responsibility Ms. Santiago had for the children in the days leading up to this incident. Some evidence suggests that even if Rosa Mercado typically watched the grandchildren only on the weekends, she was watching them a few days before this incident. Moreover, Mr. Vasquez and Michel Mercado were the primary caretakers and decision-makers for their children. They controlled where the children stayed and were responsible for keeping up with their medical needs.

To be sure, Ms. Santiago did take care of her grandchildren often to help her son. Indeed, as soon as she was asked to take her granddaughter to the doctor, she did; as soon as the doctor said she needed to go to the ER, she went. But the evidence is thin that she had enough contact with the children before the incident that she could be blamed for the children’s medical conditions. Among other things, it is not apparent how many days before the incident the children might have exhibited symptoms that required medical attention.

EEC’s concerns based on DCF’s findings are understandable. If everything in the DCF report were as it seems, that conduct rightly gave EEC pause about granting Ms. Santiago her license. But the report did not really capture Ms. Santiago’s conduct during that time, instead

painting a misleading picture of the situation.

Ms. Santiago previously held a daycare license for ten years without any issues. There is nothing else in her record to suggest she is incapable of properly caring for children. These facts, along with her explanation of the events in this case, are enough to prove by clear and convincing evidence that she is suitable for licensure.

CONCLUSION AND RECOMMENDED ORDER

I find that Ms. Santiago has proven by clear and convincing evidence that she is qualified to be a childcare provider. I recommend EEC reverse its decision and grant Ms. Santiago her license.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: March 5, 2026

Eric Tennen

Eric Tennen
Administrative Magistrate