

# COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Division of Administrative Law Appeals

**Jennifer Spellman,**  
Petitioner

v.

Docket No. OC-25-0265

**Department of Early Education and Care,**  
Respondent

**Appearance for Petitioner:**

Jennifer Spellman, *pro se*

**Appearance for Respondent:**

Leah Potash, Esq.

**Administrative Magistrate:**

Kenneth J. Forton

## SUMMARY

Petitioner was granted a daycare license in 1997 and again in 2023. After she opened the second time, the Department of Early Education and Care (EEC) conducted a progress visit in 2024. During the visit, the licensee concealed an infant in an unlicensed room with an unapproved caregiver and then lied about it when questioned. The licensee explained that she hid the child because she knew she was not compliant with the age ratio requirements of her license. In response, EEC froze her program's enrollment and cited her for Safe Sleep violations. During another home visit in February 2025, EEC confirmed that she violated the enrollment freeze by taking a seventh child into care. She hid this enrollment too. EEC also noted curriculum concerns. I recommend that EEC revoke the license.

**RECOMMENDED DECISION**

Petitioner Jennifer Spellman requested an adjudicatory hearing to challenge Respondent Department of Early Education and Care's (EEC) decision to revoke her family childcare license. *See* 102 CMR 1.07(4)(a)(1); 606 CMR 7.00. The parties filed a joint pre-hearing memorandum and 8 proposed exhibits. On September 3, 2025, I held an evidentiary hearing by Webex video platform. It was digitally recorded. I entered the 8 proposed exhibits into evidence as marked. (Exs. 1-8.) EEC called three witnesses: Desiree Ayala, an EEC Licensing Specialist; Dennis Faulkner, an EEC Licensing Supervisor; and Marisol Rosado-Ledoux, an EEC Regional Director. Ms. Spellman testified on her own behalf. The parties made oral closing arguments, whereupon the administrative record closed.

**FINDINGS OF FACT**

1. Jennifer Spellman was first granted a license to operate a home daycare program in 1997. She operated it until 2013 when it closed. (Ex. 7; Faulkner Testimony.)
2. In September 2021, EEC received reports that Ms. Spellman was operating her daycare program again, but this time without a license. EEC investigated this report and found Ms. Spellman was caring for 6 children in October 2021. (Ex. 1.)
3. EEC informed Ms. Spellman that she must obtain a license to continue to operate. Though she was previously licensed, Ms. Spellman claimed not to know she needed a license. She agreed to apply for one but failed to complete the process. EEC

informed Ms. Spellman that she must cease operations until she obtained a license.

(Exs. 1, 7.)

4. In November 2022, EEC received another report that Ms. Spellman was operating without a license. (Ex. 2; Ayala Testimony.)

5. In January 2023, EEC Licensor Desiree Ayala and another licensor investigated this report. Ms. Spellman barred the licensors from entering her home, but the licensors saw children behind Ms. Spellman. She ultimately admitted she was still operating and giving unlicensed care to 5 children. (Ex. 2.)

6. Licensor Ayala explained again the need for Ms. Spellman to obtain a license. Ms. Spellman said she understood. When asked why she did not obtain the license, Ms. Spellman said she “let it lapse.” Ayala informed Ms. Spellman that she would likely be receiving a Cease-and-Desist letter from EEC. (Ex.2; Ayala Testimony.)

7. Ms. Spellman was issued a Cease-and-Desist order on January 11, 2023. It informed Ms. Spellman that she must stop providing all unlicensed childcare. (Ex. 3.)

8. Ms. Spellman finally completed the application for a license and was given a 3-year license to operate with 6 children as of March 26, 2023. (Ex. 7; Rosado-Ledoux Testimony.)

9. Ms. Spellman’s license covered three spaces: the kitchen/dining room, the living room, and the “back bedroom.” Ms. Spellman was aware that other rooms in her house were not licensed space, and she was not allowed to care for children in those rooms. Her daughter’s room was not a licensed space. (Ex. 5; Spellman Testimony.)

10. Ms. Spellman's license also carried certain age ratio restrictions. She could care for up to 6 children, but "[n]o more than three children younger than two years old, including at least one toddler who is walking independently. Additional children must be older than 24 months." (Ex. 7., *citing* 606 CMR 7.10(4)(d).)

11. Compliance with age ratios is a serious concern for EEC, as it is critical to safe care of the children. (Faulkner Testimony.)

12. A progress visit is an unannounced visit from a licensor with the goals of evaluating the progress of the care facility and addressing any regulations not being followed. If any infractions are found, the licensor and licensee come up with a corrective action plan. Typically, the licensor and the Educator meet informally to discuss the licensor's impressions. Then, a written report is filed. The Educator has two weeks to respond to any citations with their corrections. The goal is to provide ongoing support to the Educator and bring the program into compliance. (Ex. 5; Ayala Testimony.)

13. On October 18, 2024, Ms. Ayala conducted a progress visit. She observed 5 children in the home, but she heard crying coming from an unlicensed part of the house. When asked about the crying, Ms. Spellman said the noise was coming from a movie her daughter was watching. The crying continued. Ms. Ayala asked again about the crying until Ms. Spellman admitted that her daughter was watching another infant in her bedroom. (Ayala Testimony; Ex. 7.)

14. The bedroom was an unlicensed part of the house, and Ms. Spellman's daughter was not an approved care giver. When asked why she put the infant in the

bedroom, Ms. Spellman admitted she knew she was not in compliance with the age ratios and was trying to hide the infant. Ms. Spellman was aware that the room was unlicensed and that her daughter was not approved as a care giver. (Ex. 5; Ayala Testimony; Spellman Testimony.)

15. Ms. Spellman also admitted that the hidden infant was sleeping in a bouncy swing, which she also knew was in violation of EEC Safe Sleep regulations. Other sleeping violations were noted, such as “insufficient napping materials.” Ayala also asked if the child had been put in the unlicensed room before; Ms. Spellman admitted that the infant had taken naps in the room before. (Ex. 5.)

16. In total, EEC concluded there were 5 regulation violations based on that visit. (Ex. 5, *citing* 606 CMR 7.07(10)(a), 7.09(01), 7.10(04)(f) and (05), and 7.11(13)(e)(02).)

17. Ms. Spellman responded to these infractions with a corrective action plan. (Ex. 5.)

18. Based on the violations and Ms. Spellman’s response, on October 22, 2024, EEC froze the program’s enrollment. A letter from EEC directed Ms. Spellman to not enroll any more children until she was given verbal and written confirmation by EEC that the freeze was lifted. It was also made “abundantly clear” in a compliance meeting with Ms. Spellman that she was not authorized to enroll any children during the freeze. (Exs. 4, 6.)

19. On January 17, 2025, a meeting between Ms. Spellman and EEC was held at EEC’s Worcester Regional office to discuss EEC’s findings and concerns. Marisol

Rosado-Ledoux, the regional director, offered free resources to Ms. Spellman, such as coaching, but Ms. Spellman did not accept this support. (Ex. 7; Rosado-Ledoux Testimony.)

20. On February 6, 2025, EEC received a report that Ms. Spellman enrolled another child in violation of the enrollment freeze order. (Ex. 6.)

21. On February 10, 2025, Ms. Ayala attempted a home visit. She knocked on the door, rang the doorbell, and called Ms. Spellman on the phone multiple times. There was no answer. Ms. Ayala heard movement behind the door, but Ms. Spellman denies that it was her behind the door. (Ex. 6; Ayala Testimony; Spellman Testimony.)

22. Ms. Ayala followed up with an email after this unsuccessful visit. Ms. Spellman replied that she was in a back room reading to the children at the time, so she did not hear the doorbell or the knocks at the door. She also claimed she had not had her phone with her. (Ex. 6; Ex. 8; Ayala Testimony; Spellman Testimony.)

23. On February 20, 2025, Ms. Ayala attempted another progress visit. She questioned Ms. Spellman about enrollment. At first, Ms. Spellman denied enrolling another child during the freeze. She claimed that the child in question was going to be born later in the year and therefore had not been present at her residence yet. When presented with evidence of payment from the parents, Ms. Spellman then admitted that she did enroll another child during the freeze. At first, she claimed the child attended only part-time. Later, however, she contradicted herself by admitting that the child attended full-time Monday through Friday. This untruthfulness deeply concerned Ms. Ayala. When asked to provide the enrollment and medical forms for this newly enrolled

child, Ms. Spellman admitted she did not have any of them. EEC cited Ms. Spellman for enrolling the new child despite the enrollment freeze and for not having the child's enrollment forms or medical documentation. (Ex. 6; Ayala Testimony.)

24. During this visit EEC observed the children running around, unengaged in any learning activities. Consequently, EEC cited Ms. Spellman for a lack of curriculum and structure in the program. While Ms. Spellman denied there was no plan (citing her reading, playing, and other activities with the children), she admitted she was aware that EEC requires her to provide evidence of her curriculum plan, which she could not do. (Ex. 6; Ayala Testimony; Spellman Testimony.)

25. Ms. Ayala described Ms. Spellman as "withdrawn," as she "did not respond" to the list of concerns. Ms. Ayala told Ms. Spellman that her "lack of cooperation" was concerning. (Ex. 6.)

26. On February 25, 2025, Ms. Ayala, Mr. Faulkner, and Ms. Rosado-Ladoux met with Ms. Spellman to discuss their concerns. Ms. Spellman did not explain why any of the infractions occurred. She was quiet. She did not interact during the meeting. EEC referred the case to its legal department. (Ex. 7; Faulkner Testimony.)

27. On March 25, 2025, EEC issued an "Order to Protect Children: Notice of Revocation and Notice of Ability to Fine." The document cited Ms. Spellman for failing to appropriately supervise children in her care and permitting an unlicensed person to care for a child, failing to abide by the enrollment freeze, lacking sound administration in her program, and not following EEC Safe Sleep regulations. (Ex. 7, *citing* 102 CMR 1.07(4)(a).)

**CONCLUSION AND RECOMMENDATION**

Ms. Spellman was licensed to operate a daycare program in her home. This meant that she had to comply with the regulations promulgated by EEC. 606 CMR 7.03(1). EEC has discretion to revoke a license if it finds the licensee has failed to comply with the regulations or makes a misleading or false statement to EEC. G.L. c. 15D, § 10; 102 CMR 1.07(4)(a)(1).

The first reason for revocation provided by EEC is Ms. Spellman's failure to supervise children in her care appropriately. Ms. Spellman's license permitted her to operate her daycare program in only the licensed areas of her home: the kitchen/dining area, the living room, and the bedroom. Child care must be provided only in space approved by EEC. 606 CMR 7.07(10)(a); *see also* 606 CMR 7.04(15)(f) (licensee must notify EEC prior to any change in space used by the program). Licensees are required to exercise good judgement in determining the appropriate level of supervision of the children, considering a number of factors. *See* 606 CMR 7.10(5)(b). These factors include the age of the child, the number of educators supervising, and the environment and "its impact upon the educator's ability to see and/or hear children." *See* 606 CMR 7.10(5)(b)(1-5). Placing an infant in a closed-off, unlicensed room with an unapproved caregiver does not show good judgement. Infants require consistent monitoring from licensed and responsible caregivers. Ms. Spellman's decision to have her daughter, an unlicensed caregiver, watch an infant in an unlicensed space behind a closed door made it impossible for Ms. Spellman to see the infant.



Ms. Spellman also was not in compliance with the age ratio requirements of her license because she had more than 3 children in care under the age of two. *See* 606 CMR 7.10(4)(d). These requirements are in place because they are essential to the safe care of children. Before a license is approved, the licensee must provide evidence they can comply with these ratios. 606 CMR 7.03(6)(a)(2). The regulations clearly list the age ratios, and Ms. Spellman admits that she understood them and still chose to violate them. *See* 606 CMR 7.10(4)(d).

The most troubling part of Ms. Spellman's noncompliance, however, is that she concealed it and then, after being questioned about the crying, doubled down by lying about it. Ms. Spellman did not want to be caught out of compliance. So, she chose to take a serious risk by hiding the infant. This was a bad choice. EEC witnesses credibly testified that the agency attempts to work with Educators to bring them into compliance by meeting with them and working out corrective action plans. EEC did that with Ms. Spellman. But she responded by violating the limits on enrollment placed on her daycare license. It is nearly impossible to responsibly regulate Ms. Spellman's program if EEC has trouble accessing the program and then is lied to when it finally gains entry to the licensed space.

EEC also based its charge for failure to appropriately supervise the children on statements from a parent of a child who attended Ms. Spellman's day care, reporting that her child "comes home daily with injuries and bite marks." Ms. Spellman admitted that the child was bitten once by another child. Putting aside whether a child biting another child could even be avoided by some level of supervision, I do not find this

meager evidence reliable because it is hearsay and the parent was not available for cross examination. *See* G.L. c. 30A, § 11(a) (evidence admissible only “if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.”).

The second reason provided by EEC for revocation was failure to follow Safe Sleep regulations. Ms. Spellman admitted to letting the hidden infant sleep in a bouncy swing, a violation of Safe Sleep protocols, and failing to provide appropriate sleep materials for all the children. *See* 606 CMR 7.11(13); 606 CMR 7.05(8)(e). EEC cited this practice as a separate ground for revocation. By themselves, these two Safe Sleep infractions would likely not result in a revoked license, but, coupled with the circumstances in which these infractions were discovered, it is not difficult to conclude that Ms. Spellman failed to appropriately supervise children in her care.

The third justification for revocation listed by EEC was Ms. Spellman’s failure to comply with the enrollment freeze. After EEC froze Ms. Spellman’s program enrollment and she attended a meeting at EEC about what that meant, she disregarded it and admitted another child to her care. Licensees “may admit children only in accordance with the provisions of the license.” 606 CMR 7.04(1).

Ms. Spellman admits that she enrolled a seventh child, putting her over capacity. EEC puts a limit on the number of children allowed in a program for the children’s safety based on “the size and layout of the physical facility, the number and qualifications of educators, the equipment and resources available to the children, [and] the individual needs and characteristics of the children served.” 606 CMR 7.03(2). The number of

children allowed in the residence at one time is also a part of the age ratio requirements imposed on Ms. Spellman through her license. 606 CMR 7.10(4)(d). Since Ms. Spellman's license allowed for only 6 children, and Ms. Spellman admits to watching 7, she was not compliant with the 6-child capacity limitation on her license. *Id.* Not following the license's capacity limits, coupled with the fact Ms. Spellman enrolled this child during a freeze, is grounds for revocation.

Again, the most troubling part of Ms. Spellman's non-compliance is her false statements to the investigators. Her lies and then continued backtracking during the conversations with investigators presents another instance of Ms. Spellman attempting to conceal things from the EEC. It is impossible for EEC to regulate child care programs if the care providers lie to EEC.

Finally, EEC criticizes Ms. Spellman's lack of record keeping and curriculum planning. Licensees are required to maintain individual documentation for each enrolled child and evidence of a curriculum plan. *See* 606 CMR 7.04(7)(a); 606 CMR 7.06(1)(b).

The licensee must maintain an individual written record for each child that includes identifying information for each child and the child's parents, medical information, a list of persons authorized to pick up the child, parental consent for off-site activities, and other important information. *See* 606 CMR 7.04(7)(a)(1-15). Ms. Spellman had these records for most of the children in her care, but she had none of them for the seventh child surreptitiously in her care for months. Maintaining these records is not an idle exercise. They are important in case a caregiver needs to contact

the parents or, in an emergency, convey vitally important medical information to emergency responders, doctors, and other health care professionals. Ms. Spellman was clearly aware of this requirement, but, because she was concealing the child, she neglected to keep records for the seventh child.

As for day-to-day curriculum, EEC requires that licensees be able to cite “specific, planned learning experiences.” 606 CMR 7.06(1)(a). Ms. Spellman testified that she sings to the children, reads to and with them, plays with them, and does other activities. EEC requires these curricula to be recorded and for Ms. Spellman to be able to present them when necessary. 606 CMR 7.06(1)(b). While Ms. Spellman admits to understanding this, she could not produce her curricula when requested.

For the above-stated reasons, I recommend that EEC revoke Ms. Spellman’s license under 102 CMR 1.07(4)(a)(1).

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Kenneth J. Forton*

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Kenneth J. Forton  
Administrative Magistrate

DATED: October 1, 2025