

COMMONWEALTH OF MASSACHUSETTS  
Division of Administrative Law Appeals

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ANA VASQUEZ  
*Petitioner*

Docket No. OC-24-0664

v.

Date: August 6, 2025

DEPARTMENT OF EARLY  
EDUCATION AND CARE,  
*Respondent*

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**Appearances:**

**For Petitioner:** Ana Vasquez, pro se  
**For Respondent:** Nicole Munroe, Esq.

**Administrative Magistrate:**

Eric Tennen

**SUMMARY OF RECOMMENDED DECISION**

The Department of Early Education and Care denied Ms. Vasquez’s application for licensure. The denial was based on an incident in 2019 in which DCF supported allegations of physical abuse by her against a child in her care; in addition to the DCF finding, there was other corroborating evidence. Ms. Vasquez denied the misconduct at the time and still does today. Ultimately, the Department’s denial was based on competent evidence of prior abuse, and Ms. Vasquez did not present any new evidence that would call the Department’s decision into question.

**INTRODUCTION**

Ana Vasquez 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 April 17, 2025, I conducted an in-person hearing. Ms. Vasquez testified on her own behalf. The Department presented one witness, Unique Dodd, the background check reviewer who conducted Ms. Vasquez’s discretionary review. I entered exhibits R1-R12 and P1 into evidence. After the hearing, each party submitted one more document, which I now enter into evidence and

mark as Exhibits R13 and P2. The Department submitted a closing brief on June 20, 2025, at which point I closed the administrative record.

### **FINDINGS OF FACT**

1. In 2005, Ms. Vasquez was first licensed as a family childcare provider. However, after an incident in 2019, her license was revoked. She later applied to have her license reinstated. EEC denied her license application and this appeal followed. (Ex. R1; Vasquez.)
2. When she applied, EEC conducted a background check. A background check looks at, among other things, criminal history and prior involvement with the Department of Children and Families (“DCF”). (Dodd.)
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). (Dodd.)
4. As part of Ms. Vasquez’s background review, EEC found information that triggered its discretionary review process: the 2019 incident. (Dodd.)

#### **2019 Incident**

5. Ms. Vasquez had several children in her care, including Child 1. On this day, she sent a text message to Child 1’s mother that Child 1 had “made a mess all over himself” (meaning he had a toileting accident). (Ex. R2.)
6. That day, Child 1 had no bruises or scratches on his body before going to daycare. (Ex. R2.)
7. After she picked up her child, Child 1’s mother noticed he had visible bruising and

- irritation on his ears and a welt on his back. When she asked him what happened, Child 1 said that Ms. Vasquez “pinched/smacked his ears.” (Ex. R2.)
8. Child 1’s mother took pictures and sent them to Ms. Vasquez’s referring agency. She eventually went to the police station to report the incident. And the next morning, she took Child 1 to the doctor. (Ex. R2.)
  9. Additionally, DCF began its own investigation. (Ex. R2.)
  10. When interviewed by the authorities, Child 1 said that he had an accident in the bathroom. Ms. Vasquez was mad at him and pulled his ear and slapped his back. He said she also does this to another child in her care when that child has accidents. (Ex. R2.)
  11. Child 1’s primary care doctor confirmed that the bruising was consistent with Child 1’s disclosure. (Ex. R2.)
  12. The mother of another child in Ms. Vasquez’s care told investigators that she had observed Ms. Vasquez speaking aggressively with kids. She also observed “unexplained scratches or bruises on [her] son.” (Ex. R2.)
  13. When interviewed, Ms. Vasquez was very angry and made the interview difficult to conduct. She denied hitting Child 1. She explained that he did have an accident, but she was not mad. She did not use physical discipline on children in her care. Thus, she suspected that if Child 1 was abused, it must have happened at his home after he left her care. (Ex. R13.)
  14. Ms. Vasquez made some vague allegations about Child 1’s mother needing to be investigated because the mother was involved with his father and “going out in the evenings.” The investigator reminded Ms. Vasquez that she was a mandated reporter and

asked her if she had anything that needed to be reported to DCF. Ms. Vasquez said no, responding “these were things said to her by a relative of the parent.” (Ex. R13.)

15. DCF ultimately supported the allegations of abuse. (Ex. R2.)
16. Ms. Vasquez was then criminally charged with one count of assault and battery. But the Commonwealth later dismissed the case because Child 1’s mother did not want him to participate in a trial. (Exs. R3 & R4.)

Discretionary Review Process

17. As part of the review process, Ms. Vasquez submitted a candidate statement and two letters of support. (Exs. 5, 6, & 8.)
18. In her statement, she maintained she did not physically abuse Child 1. Her support letters, while positive, did not indicate the authors had any familiarity with the 2019 incident. (Exs. 5, 6, & 8.)
19. Once Ms. Vasquez’s application was complete, the EEC reviewer—here Ms. Dodd—conducted her 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.

(Dodd.)

20. Most of the factors weighed against Ms. Vasquez. The incident was recent, she was an adult when it happened, it was very serious and directly related to her ability to care for

children, and there was no evidence of rehabilitation (because she denied doing anything wrong). The only factor in her favor was that she had no other DCF findings or criminal charges on her record. (Ex. 1; Dodd.)

Ms. Vasquez's testimony at the hearing

21. Ms. Vasquez testified at the hearing about the incident. She continued to deny the allegations. (Vasquez.)
22. She reiterated that she believed the child was being abused at home. On that day, he was very afraid of what his mother would do if she found out he had soiled himself. (Vasquez.)
23. She explained that, after the mother found out what happened, she got very angry. When the mother arrived at the daycare, she threw the clothes at her child. (Vasquez.)
24. As the mother was leaving, Ms. Vasquez claims the mother hit child 1 twice and pushed him into the car. (Vasquez.)<sup>1</sup>
25. Ms. Vasquez also said that she appealed DCF's decision. However, even when given a chance to provide documents after the hearing, she failed to submit anything supporting

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<sup>1</sup> Ms. Vasquez testified that she tried to report this conduct to EEC. I do not credit her testimony for the following reasons. I allowed her time after the hearing to submit any documents she had to corroborate her testimony. She ultimately submitted a letter dated May 15, 2019 and what appears to be a daily log of activities from that same day. (Ex. P2.) Ms. Vasquez wrote in both documents that, on that day, Child 1's mother came to pick him up with Child 1's older brother. Upon arrival, Ms. Vasquez claims Child 1's mother hit his older brother in the face and called him stupid (for not staying in the car). First, even if true, this is an allegation that Child 1's mother hit his brother, not him, and does not explain Child 1's injuries. Also, at the time, Ms. Vasquez was asked by investigators if, as a mandatory reporter, she had anything to report about Child 1's mother and she said no. Finally, Ms. Dodd testified that she did not find any records of these complaints within EEC's casefiles; to the extent EEC had any additional records, it submitted them after the hearing—but they did not reflect Ms. Vasquez's complaint. (Ex. R13.)

this claim. (Vasquez.)

### DISCUSSION

This appeal relates only to EEC's denial of her pending application for licensure (and not related to the original revocation in 2019). When an applicant has a potentially disqualifying background, EEC may conduct a discretionary review to determine whether to grant or deny a childcare license. *See* 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." 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 made 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, the denial was based on an incident that resulted in DCF supporting allegations of abuse.<sup>2</sup> DCF's report in this case is reliable evidence that the incident occurred as described. It provides an adequate basis for EEC to deny the Petitioner's application, especially since there was ample corroborating evidence, including statements by the child, his

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<sup>2</sup> I acknowledge that criminal charges were brought but later dropped. However, they were dropped because the mother's child did not want him to be part of the process. Thus, it sheds little light on Ms. Vasquez's claim of innocence.

mother, and his doctor, all implicating Ms. Vasquez. There was even a statement by another parent that their child sometimes came home from Ms. Vasquez's daycare with unexplained scratches and bruises.

EEC gave Ms. Vasquez an opportunity to provide any additional information in support of her application. Ms. Vasquez submitted a letter in which she denied the allegations and suggested the child's mother was the likely abuser. That statement was not enough to overcome the strong evidence against her. It is Ms. Vasquez's burden to show that EEC somehow abused its discretion. She has not met that burden.

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. *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). At the hearing, Ms. Vasquez was given the opportunity to provide any new information not previously provided to the Department. After the hearing, she was also given an opportunity to submit documentation that might support her case. But her testimony was largely repetitive of her statement to EEC; and the documents she submitted, at best, show only that she reported an incident in which she alleged Child 1's mother hit his older brother on the day in question. *Compare and contrast EEC v. Waller*, OC-23-0266 (Div. Admin. Law App. Oct. 18, 2024) (petitioner simply repeated information already provided to EEC) *with EEC v. Gupta*, OC-23-0396 (Div. Admin. Law App. Oct. 18, 2024) (testimony provided new, credible evidence EEC had not considered).

Even assuming Ms. Vasquez did report that conduct, that does not make it true. And even if it were true, it does not provide an alternative explanation for the allegations regarding Child 1.

Rather, the mother's actions overall showed genuine concern for her son's well-being. Although possible, it is unlikely she would have willingly reported Ms. Vasquez to DCF and the police if she was trying to cover up her own misconduct. If she was not the source of her son's abuse, that leaves Ms. Vasquez as the most likely person to have harmed Child 1. Accordingly, Ms. Vasquez did not convince me that the evidence against her was somehow wrong (or fabricated).

Finally, because she denies the incident, Ms. Vasquez does not take responsibility for it and thus did not demonstrate she has taken steps to avoid repeating it. In some cases, enough time has passed from the initial incident, and the responsible party has done something to address their actions, that I have recommended EEC reconsider its initial denial. *See, e.g., EEC v. Berroa-Abad*, OC-25-0009 (Div. Admin. Law Apps. Jul. 3, 2025). But this is not one of those cases. *See EEC v. Pena*, OC-22-0446, 2025 WL 752012 (Div. Admin. Law App. Feb. 28, 2025) (Petitioner did not acknowledge wrongdoing nor present evidence she addressed reasons for misconduct).

### CONCLUSION AND RECOMMENDED ORDER

I recommend EEC's decision denying Ms. Vasquez's application for licensure be **affirmed**.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

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Eric Tennen  
Administrative Magistrate