

BEFORE THE  
DEPARTMENT OF SOCIAL SERVICES  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GLORIA BLANCO  
6344 Cerramar Cr.  
Orangevale, CA 95662

Respondent.

CDSS No. 340509102

OAH No. N2005100172

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**PROPOSED DECISION**

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on November 16 and 17, and December 15, 2005 in Sacramento, California.

Torene L.M. Schwab, Senior Staff Attorney, represented Jo Frederick (complainant), Deputy Director of the Community Care Licensing Division, Department of Social Services (Department).

On November 16, 2005, Gloria Blanco (respondent) appeared on her own behalf. Respondent did not appear on November 17, 2005. The hearing on November 17, 2005 initially proceeded as a default hearing under Government Code section 11520. After respondent showed good cause to reopen the record, the hearing on November 17, 2005 was vacated and a new hearing was scheduled for December 15, 2005. On December 15, 2005, respondent appeared and was represented by Deborah Barron, Attorney at Law.

The record was closed and the matter was submitted on December 15, 2005.

**FACTUAL FINDINGS**

1. On August 16, 2005, Melissa Miller (Miller) signed the Accusation for complainant. Both Miller and complainant acted in their official capacities when making and filing the Accusation. A First Amended Accusation was filed and served on December 14, 2005. Respondent did not object to the filing and service of the First Amended Accusation.

2. Respondent is licensed by the Department to operate a foster family home at 6344 Cerramar Circle, Orangevale, California. The most recent foster family home license issued by the Department to respondent became effective on October 1, 2004.

3. The First Amended Accusation contains allegations relating to two of respondent's foster children, Child #1 and Child #2.

Child #1 was born on October 21, 1986. On November 19, 2002, she gave birth to a daughter. She lived as a foster child with her daughter in respondent's home from February 2003 to January 2004, and from July 2004 to October 2004. Child #1 is developmentally delayed. Although Child #1 was 19 years old at the time of the hearing, Rebecca Mercado (Mercado), Child #1's county social worker, estimated that her intellectual age was about 14 years old.

Child #2 was born on November 3, 1994. She lived as a foster child in respondent's home from February 2003 to January 2004. Child #2 has been diagnosed with an attention deficit hyperactivity disorder and is taking medication.

4. In addition to Child #1 and Child #2, respondent also has cared for other foster children in her home. One of those foster children was Child #3, Child #1's sister. Child #3 was born on July 3, 1989. Child #3 was placed in respondent's home in June 2003. Upon respondent's request, Child #3 was removed from respondent's home in October 2003. Child #3 was placed back in respondent's home in December 2003. She left respondent's home without permission on or about December 31, 2003.

5. On or about January 4, 2004, respondent admonished Child #1 for leaving her daughter's stroller outside and not keeping it clean. Child #1 started cleaning the stroller while holding her daughter in her arms. Respondent told Child #1 that she was not cleaning the stroller correctly and ordered her to go inside with her daughter. Child #1 refused to obey respondent. Respondent pushed Child #1 to get her to go inside. Child #1 pushed back. Respondent grabbed and pulled Child #1 by her hair. Child #1 kicked respondent.

Respondent denied that she pushed Child #1 or pulled her hair. Respondent's denials were not credible. At hearing, both Child #1 and Child #2 credibly testified that respondent pushed Child #1 and pulled her hair. Their testimony at hearing was consistent with the information they provided to Modesta Cervantes (Cervantes), a county licensing program analyst, when Cervantes interviewed them in January and May 2004.

6. During the period from February 2003 to January 2004, when Child #2 would misbehave, respondent, on occasion, would ask Child #1 and Child #3 to help drag Child #2 to her room. Respondent, Child #1 and Child #3 would each take either Child #2's arms or legs and throw Child #2 into her room. Child #2 would sometimes not land on her feet.

Respondent denied that she ever asked the other children to help drag Child #2 to her room. She blamed Child #3 for trying, on her own, to punish Child #2 when respondent was

not looking. Respondent's testimony was not credible. Child #1, Child #2 and Child #3 credibly testified to these incidents. The testimony of Child #1 and Child #2 was consistent with the information they provided to Cervantes when she interviewed them in January and May 2004.

7. During the period from February 2003 to January 2004, when respondent got upset with Child #2, respondent would verbally abuse and ridicule her in a loud and angry voice, calling her "puta"<sup>1</sup> and "stupid," and telling her that she was "hyper" and "always moving around."

During the period from February 2003 to January 2004, when respondent got upset with Child #1, respondent would verbally abuse and ridicule her in a loud and angry voice, calling her "puta," "slow," and "stupid," and telling her that she was a "bad mother" and "worth nothing." Respondent would also tell Child #1 that she would not be as well cared for in any other foster home.

Respondent admitted that she told Child #1 that she would not be as well cared for in any other foster home. Respondent denied that she ever engaged in any verbal abuse or ridicule toward either Child #1 or Child #2. Respondent's denials were not credible. Child #1, Child #2 and Child #3 credibly and consistently testified about respondent's verbal abuse and ridicule. The testimony of Child #1 and Child #2 was consistent with the information they provided to Cervantes when she interviewed them in January and May 2004.

8. In January 2004, the county received reports with respect to the matters described in Findings 5, 6 and 7. Upon receipt of those reports, Mercado removed Child #1 and Child #2 from respondent's home, and the county undertook an investigation into the reports. Cervantes was assigned to conduct that investigation, under the supervision of Cecilia Vasquez (Vasquez), a county supervising licensing program analyst. During her investigation, Cervantes interviewed respondent, Child #1 and Child #2.

After completing the investigation, the county placed respondent on a corrective plan of action, pursuant to which the county reduced the capacity in respondent's home from six to two children, removed respondent's name from the emergency call list, and required respondent to take classes in sensible discipline, anger management, and love and logic. The corrective plan of action was delivered to respondent in June 2004. Although respondent disagreed with the county's findings, she took the required classes.

9. Sometime between April and July 2004, respondent confronted Vasquez in a county building and, in a loud and hostile voice, called Vasquez a "liar" and pointed her finger in Vasquez's face.

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<sup>1</sup> "Puta" is Spanish for "whore."

Respondent admitted that she confronted Vasquez in the county building and told Vasquez that she had lied. Respondent denied that she pointed her finger at Vasquez or yelled at her. Respondent explained that she sometimes makes “gestures” that are misinterpreted. Respondent’s denials and explanation were not credible.

10. In July 2004, Mercado again placed Child #1 in respondent’s home. Child #1 insisted on returning to respondent's home because respondent assured Child #1 that things would be better and that she would buy Child #1 a car. Respondent spoke to Child #1 in a “sweet” manner and promised that she would not yell at Child #1. Child #1 believed respondent and wanted to give her a second chance.

When Child #1 returned to respondent’s home, things did not get better, but, in fact, got worse. Respondent continued to yell at Child #1 and call her “retarded” and “dumb,” and told Child #1 that she would take her back to the receiving home because she was not worth the money that respondent was receiving to take care of her. At the end of September 2004, Child #1 called Mercado to complain about the abusive treatment she was receiving from respondent. Child #1 was removed from respondent’s home on or about October 1, 2004.

11. Rahsaan Williams (Williams), a county licensing program analyst, was assigned to investigate the allegations that Child #1 reported, together with allegations from two social workers that respondent had refused to take foster children that she had originally agreed to accept.<sup>2</sup> On October 4, 2004, Williams and other county workers had an informal conference with respondent and her husband to discuss the new allegations against her, and to emphasize to respondent that she needed to treat her foster children with respect and not create a hostile environment.

12. On October 7, 2004, Child #1 returned to respondent’s home with Danielle Martin (Martin), a case manager with EMQ Children and Family Services, to retrieve Child #1’s belongings. Martin had earlier called respondent to arrange the date and time when Martin and Child #1 would arrive. When Martin and Child #1 arrived at respondent’s home, respondent pointed to Child #1’s belongings in the garage. Child #1 did not find all her belongings and asked respondent where the missing items were. Respondent insisted that they were all there. Respondent and Child #1 argued back and forth. Respondent called Child #1 a “liar” and a “thief,” and described Child #1’s belongings as “junk.” Respondent got very close to Child #1 and pointed her finger in Child #1’s face. While respondent and Child #1 were arguing, another foster child in respondent’s care (Child #4) came forward and also called Child #1 a “liar.”

Respondent denied that she argued with Child #1, called her names, or pointed a finger in her face. Respondent asserted that only Child #4 engaged in this type of behavior.

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<sup>2</sup> There are no allegations in the First Amended Accusation with respect to respondent’s refusal to take foster children that she had originally agreed to accept. This information is included solely to indicate the scope of Williams’s investigation.

Respondent's denial and assertion were not credible. Child #1 and Martin credibly and consistently testified to respondent's behavior.

13. For two days prior to the hearing, Child #1 stayed at respondent's home. According to Child #1, she did not have any money and needed a place to stay. She asked respondent's husband if she could stay with him, and he agreed. At hearing, Child #1 asserted that, even though she was staying at respondent's house as an adult, she did not believe it was a good place for a child to live.

14. Respondent denied the allegations set forth in the First Amended Accusation. She asserted that any wrongdoing in this matter was the fault of Child #3, who, when she did not get her way, threatened that she would cause respondent to lose her license, and manipulated the other children to testify against respondent. Respondent also asserted that she did not yell at her foster children, she just has a loud voice. She attributed her animated personality and strict disciplinary methods to her Nicaraguan culture. Respondent also asserted that she had been a successful teacher and school principal in Nicaragua and a capable nanny in the United States.

Respondent's denials were not credible. There was no evidence submitted to indicate that Child #3 had convinced Child #1 and Child #2 to testify untruthfully. At hearing, all the children answered the questions posed to them directly, forthrightly and consistently; all of them admitted that, at times, they misbehaved. Respondent's husband conceded that, sometimes, when he came home from work, he would have to resolve disputes that had arisen during the day between respondent and Child #1, Child #2 and/or Child #3. While respondent may have been a competent teacher, principal and nanny, complainant presented adequate, credible evidence to show that respondent acted inappropriately with respect to Child #1 and Child #2.

15. Respondent complained that Child #1, Child #2 and Child #3 were particularly difficult children, and that the county did not give her enough support and assistance in taking care of them. While these children may have been challenging, it is the responsibility of foster parents to treat the troubled children in their care with patience and kindness. The county, by putting respondent on a corrective plan of action and meeting with her informally to discuss the complaints against her, gave respondent adequate notice and opportunity to correct her behavior. Notwithstanding this assistance and guidance, respondent continued to act in a manner that was emotionally and verbally abusive. Respondent did not recognize that her conduct with respect to Child #1 and Child #2 was inappropriate or make sufficient rehabilitative efforts to always treat her foster children in a manner that was not inimical to the health and welfare of those children.

## LEGAL CONCLUSIONS

1. Pursuant to Health and Safety Code section 1550, subdivision (a), the Department may suspend or revoke the license of a licensee who violates any provision of

the California Community Care Facilities Act, Health and Safety Code section 1500 et seq., or the rules and regulations promulgated thereunder. California Code of Regulations, title 22, section 89372, subdivision (c), in relevant part, provides that every foster child has the right:

(2) To be treated with respect and to be free from physical, sexual, emotional or other abuse.

(3) To be treated with respect and to be free from discrimination, intimidation or harassment based on sex, race, color, religion, ancestry, national origin, disability, medical condition or sexual orientation or perception of having one or more of these characteristics.

(4) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature including but not limited to interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.

California Code of Regulations, title 22, section 80072, subdivision (a)(2), provides that each foster child shall have personal rights, including, but not limited to, the right to safe accommodations. Under section 80072, subdivision (g), licensees must ensure that their foster children are accorded all their personal rights.

Pursuant to California Code of Regulations, title 22, section 80078, subdivision (a), licensees must “provide care and supervision as necessary to meet” their foster children’s needs.

The findings set forth in Findings 5, 6, 7 and 10 establish cause to revoke respondent’s license pursuant to Health and Safety Code section 1550, subdivision (a), and California Code of Regulations, title 22, sections 89372, subdivisions (c)(2), (3) and (4); 80072, subdivisions (a)(2) and (g); and 80078, subdivision (a).<sup>3</sup>

2. Pursuant to Health and Safety Code section 1550, subdivision (c), the Department may suspend or revoke the license of a licensee who engages in conduct that “is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.”

The findings set forth in Findings 5, 6, 7, 9, 10 and 12 show that respondent engaged in conduct that was inimical to the health, morals, welfare, or safety foster children in her

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<sup>3</sup> Complainant did not establish cause to revoke respondent’s license pursuant to Health and Safety Code section 1550, subdivision (b), or California Code of Regulations, title 22, section 80065, subdivisions (a) and (g).

care or the people of the State of California, and establish cause to revoke respondent's license pursuant to Health and Safety Code section 1550, subdivision (c).

### ORDER

The foster family home license issued to Gloria Blanco by the Department of Social Services for the facility located at 6344 Cerramar Cr. Orangevale, CA 95662, is REVOKED.