

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF EARLY CHILDHOOD EDUCATORS**

PANEL: Lori Huston, RECE Chairperson
Rosemary Fontaine
Francois Bertrand

BETWEEN:)
)
COLLEGE OF EARLY) Ada Keon
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
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- and -)
)
KATHERINE ANN BECHARD) No Representation
REGISTRATION # 44887)
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)
) Elyse Sunshine
) Independent Legal Counsel
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)
) Heard: December 11, 2018

DECISION AND REASONS

This matter came on for a hearing before a panel of the Discipline Committee of the College of Early Childhood Educators (the “**Panel**”) held a hearing on December 11, 2018.

THE ALLEGATIONS

The allegations against the Member as stated in the Notice of Hearing dated November 30, 2018, are as follows:

1. At all material times, Katherine Ann Bechard (the “**Member**”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“**ECE**”) at the Ashley Oaks Public School (the “**School**”), located in London, Ontario.
2. On or about February 23, 2017, the Member was in the school coatroom, supervising a group of kindergarten students who were removing their outdoor clothes after recess. The group included M., a four year old developmentally delayed student.
3. While trying to remove M.’s coat, the Member refused an offer of assistance from another ECE and engaged in inappropriate and unprofessional behaviour, including the following:
 - (a) The Member grabbed M. by the waist, lifted him up off the floor and sat him down so forcefully on a bench that M. hit his head on the wall behind the bench,
 - (b) While sitting M. on the bench, the Member spoke to M. in a harsh and/or aggressive manner, telling him “you sit here”, or words to that effect; and/or
 - (c) When M. hit his head on the wall, the Member failed to check to see if M. was injured, did not try to comfort M. and/or did not report the incident to her supervisors.
4. On or about February 27, 2017, the Member was supervising kindergarten students, including M., in the school playground during recess. In doing so, the Member refused offers by another ECE and teaching staff to assist her with M. and engaged in inappropriate and unprofessional behaviour, as follows:
 - (a) The Member abruptly grabbed M. (who was lying face down on the ground) by the back of his coat and/or pants, carried him face-down and parallel to the ground, and/or swung him forcefully to place M. on his feet; and/or

- (b) The Member spoke to M. in a harsh and/or aggressive manner and/or handled him roughly.
5. By engaging in the conduct set out in paragraphs 2 to 4 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
- a) she verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
 - b) she physically abused a child who was under her supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
 - c) she psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - d) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. she failed to provide a nurturing learning environment where children thrived, contrary to the Standard I.D. of the Standards of Practice;
 - ii. she failed to establish professional and caring relationships with children and/or to respond appropriately to the needs of children, contrary to Standard I.E of the Standards of Practice;
 - iii. she failed to ensure that the needs and best interests of the children were paramount, contrary to Standard I.F of Standards of Practice;
 - iv. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice
 - v. she failed to support children in developmentally sensitive ways and to provide caring, stimulating, and respectful opportunities for learning and care that are welcoming to children and their families, contrary to Standard III.C.1;
 - vi. she failed to make decisions, resolve challenges and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4 of the Standards of Practice;

- vii. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice; and/ or
- viii. she physically, verbally, psychologically or emotionally abused a child under her professional supervision, contrary to Standard V.A.1 of the Standards of Practice;
- e) she acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and/ or
- f) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to the allegations in the Notice of Hearing as set out above.

The Panel received the Member's plea both orally and in writing, through an Agreed Statement of Facts (Exhibit 2). The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

EVIDENCE

Counsel for the College of Early Childhood Educators of Ontario (the "**College**") and the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which read as follows.

1. The Member initially registered with the as a Registered Early Childhood Educator ("**RECE**") on August 12, 2013. The Member's certificate of registration with the College is currently suspended for non-payment of fees.
2. At all material times the Member was employed as an RECE at the Ashley Oaks Public School (the "**School**") located in London, Ontario. The Member had been employed on a full-time basis at the School since on or about September 14, 2014.
3. The incidents described below were reported to the London/Middlesex Children's Aid Society (the "**CAS**") on February 28, 2017, which conducted an investigation and verified protection concerns on March 9, 2017. The Member was removed from the School and placed at White Oaks Public School to finish her year.
4. On or about August 31, 2017, the Member resigned from her position as an ECE with the Board, in order to return to school to complete an additional college program.

Incident on or about February 23, 2017

5. On or about February 23, 2017, in the course of her duties at the School, the Member was in the school coatroom, supervising a group of kindergarten students who were removing their outdoor clothes after recess. The group included M., a four year old developmentally delayed student. M. has poor depth perception, low sight, and is not very verbal.
6. Another ECE was present and witnessed the subsequent incident.
7. The Member was sitting on a bench in the coatroom where the children were removing their clothes. M. was lying on the ground on his back.
8. M. was not acting in a defiant or disruptive manner, and did not require behaviour guidance. The Member's immediate response to M. lying on his back was to undertake inappropriate physical behaviour guidance.
9. The Member abruptly and aggressively grabbed M. with both of her hands around his waist and sat him down suddenly on a bench.
10. Due to his developmental delays M. was unaware of what was occurring. The force with which M. was placed down on the bench resulted in M.'s head hitting the wall behind the bench, and caused M. to begin crying.
11. While sitting M. on the bench, the Member spoke to M. in a harsh and/or aggressive manner, telling him "you sit here", or words to that effect.
12. Subsequently another ECE offered assistance to the Member, which she turned down.
13. When M. hit his head on the wall, the Member failed to check to see if M. was injured, did not try to comfort M. and/or did not report the incident to her supervisors.

Incident on or about February 27, 2017

14. On or about February 27, 2017, the Member was supervising kindergarten students, including M., in the school playground during recess. Two ECEs and a teacher from the School were also present.
15. Recess ended and it was time for the children to return inside. M. was lying on the ground on his stomach.
16. M. was not acting in a defiant or disruptive manner, and did not require behaviour guidance. The Member's immediate response to M. lying on his front was to undertake inappropriate physical behaviour guidance.
17. While the incident was occurring, the Member declined an offer of assistance from another ECE.

18. The teacher heard the Member say something along the lines of “if you’re not going to line up, here we go I’ll help you” or “here we go” in a harsh and/or aggressive manner, prior to grabbing M.
19. The Member grabbed M. by the back of his coat and/or pants, carried him face-down and parallel to the ground. The witnesses described the Member carrying M. like a “suitcase” or “piece of luggage”.
20. The Member swung M. forcefully back and forth several times to gain enough momentum to place M. on his feet.

CAS Investigation

21. As a result of the incidents described above, the CAS conducted a child protection investigation. On March 9, 2017, the CAS verified the protection concerns citing how the Member handled the child, her refusal for assistance when offered by others, the child’s complex needs and the mere fact that it was an avoidable situation which could have been handled in a very different manner.

College Standards of Practice

22. The Member agrees that the following are standards of the profession that were in force in February 2017, as set out in the 2011 College’s Code of Ethics and Standards of Practice:
 - a. Standard I.D requires RECEs to provide nurturing learning environments where children thrive and families are welcome.
 - b. Standard I.E requires RECEs to establish professional and caring relationships with children and families and to respond appropriately to the needs of children.
 - c. Standard 1.F requires RECEs to ensure that the needs and the best interests of the children are paramount.
 - d. Standard III.A.1 requires RECEs to maintain safe and healthy learning environments.
 - e. Standard III.C.1 requires RECEs to support children in developmentally sensitive ways and to provide caring, stimulating, and respectful opportunities for learning and care that are welcoming to children and their families.
 - f. Standard IV.B.4 requires RECEs to make decisions, resolve challenges and provide behaviour guidance in the best interests of the children under their professional supervision.
 - g. Standard IV.E.2 requires RECEs to avoid conduct that could reasonably be perceived as reflecting negatively on the profession of early childhood education.
 - h. Standard V.A.1 requires RECEs not to abuse physically, verbally, psychologically, or emotionally a child under their professional supervision.

Admissions of Professional Misconduct

23. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 1 to 8 above, and as defined in section 33(2) of the *Early Childhood Educators Act, 2007*, in that:

- a. she physically, verbally, psychologically, and/or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
- b. she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - ix. she failed to provide a nurturing learning environment where children thrived, contrary to Standard I.D of the Standards of Practice;
 - x. she failed to establish professional and caring relationships with children and/or to respond appropriately to the needs of children, contrary to Standard I.E of the Standards of Practice;
 - xi. she failed to ensure that the needs and best interests of the children were paramount, contrary to Standard I.F of Standards of Practice;
 - xii. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice;
 - xiii. she failed to support children in developmentally sensitive ways and to provide caring, stimulating, and respectful opportunities for learning and care that are welcoming to children and their families, contrary to Standard III.C.1;
 - xiv. she failed to make decisions, resolve challenges and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4 of the Standards of Practice;
 - xv. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice; and
 - xvi. she physically, verbally, psychologically or emotionally abused a child under her professional supervision, contrary to Standard V.A.1 of the Standards of Practice;
- c. she acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10);

- d. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

DECISION ON THE ALLEGATIONS

Having regard to the facts set out in the Agreed Statement of Facts, the Committee accepted the Member's admission and found that she committed acts of professional misconduct as alleged in the Notice of Hearing.

REASONS FOR DECISION

The Panel considered the Agreed Statement of Facts and the Member's guilty plea and found that the evidence supported findings of professional misconduct as alleged in the Notice of Hearing.

The evidence demonstrates that on two occasions, the Member's actions with M. constituted professional misconduct in the manner outlined in the Notice of Hearing.

On February 23rd, 2017, in the course of her duties at the school, the Member was in the coatroom, supervising a group of kindergarten students after recess. The group included M., a four year old developmentally delayed child, with poor depth perception, low sight, and was not very verbal. While the children were removing their outdoor clothes the child was lying on the ground on his back and was not acting in a defiant or disruptive manner. The member aggressively grabbed the child with both hands and sat him suddenly down on the bench. This resulted in the child hitting his head on the wall. The member failed to check whether the child was injured, did not try to comfort him and did not report the incident to the supervisors. The Member acknowledges that these actions caused psychological harm and emotional and physical injuries.

On February 27th, 2017, the Member was supervising kindergarten students during recess. When recess ended and it was time for the children to return inside, M was lying on the ground on his stomach. Once again, even though he was not acting in a defiant or disruptive manner, the Member grabbed the child and carried him face down and parallel to the ground. This was described by witnesses as carrying the child like a "piece of luggage."

In both instances, the Member spoke to the child in a harsh and aggressive manner and refused assistance from colleagues in dealing with the situation.

The Panel found that this conduct constituted physical, verbal, psychological or emotional abuse of a child under her professional supervision, and that the Member failed to maintain professional standards.

Further, in conducting herself as she did with this child, the Member acted in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Physical abuse of a child is reprehensible. It disgraces the profession and the Member. It also constitutes conduct that is unbecoming a member. The Member acknowledged that she behaved in a manner that is unbecoming a member and that her conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional. We agree.

The member's voluntary admission to each of the allegations of professional misconduct and the facts set out in the Agreed Statement of Facts led the panel to find the Member guilty of professional misconduct in respect of all of the allegations set out in the Notice of Hearing.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and the Member made a joint submission as to an appropriate penalty. The joint submission as to penalty proposed that the Panel make an order as follows:

1. Requiring the Member to appear before the Panel to be reprimanded on the date of this Order.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of eight (8) months. The suspension will take effect from the date that the Member obtains a certificate of registration in good standing and will run without interruption as long as the Member's registration with the College remains in good standing.
3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a. Prior to the Member commencing or resuming employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007* ("**Employment**"), the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation ("**Director**") if a grade is not assigned) and at her own expense, a course in behaviour guidance that is pre-approved by the Director. The Member must provide the Director with proof of enrollment and successful completion of the course.
 - b. Prior to the Member commencing or resuming Employment, the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,

- iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
- iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
- v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
- vi. is pre-approved by the Director. In order for the Director to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, the Member can commence or resume Employment after arranging a mentorship relationship with a pre-approved Mentor (assuming the requirements of subparagraph 3(a) have been met).

- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty, and
 - iv. a copy of the Panel's Decision and Reasons, once available.
- d. The Member will meet with the Mentor every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).

- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by registered mail or courier, and the Member will retain proof of delivery.
- g. Requiring the Member to pay the College's costs fixed in the amount of \$1500 to be paid on the date of this Order.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon. She provided a number of analogous cases, including *College of Early Childhood Educators v Hashimi*, 2018 ONCECE 3 (CanLII), which demonstrated that the proposed penalty was in the range of other decisions.

PENALTY DECISION

The Panel accepted the joint submission on penalty and made the following order as to penalty:

1. The Member is required to appear before the Panel to be reprimanded on the date of this Order.
2. The Registrar is directed to suspend the Member's certificate of registration for eight months. The suspension will take effect from the date of this Order, and will run without interruption as long as the Member remains in good standing with the College.
3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a. Prior to the Member commencing or resuming Employment, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director) if a grade is not assigned) and at her own expense, a course in behaviour guidance that is pre-approved by the

Director. The Member must provide the Director with proof of enrollment and successful completion of the course.

- b. Prior to the Member commencing or resuming Employment, the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
 - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
 - v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
 - vi. is pre-approved by the Director. In order for the Director to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, the Member can commence or resume Employment after arranging a mentorship relationship with a pre-approved Mentor (assuming the requirements of subparagraph 3(a) have been met).

- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty, and
 - iv. a copy of the Panel's Decision and Reasons, once available.
- d. The Member will meet with the Mentor every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,

- iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
- i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- f. All documents delivered by the Member to the College will be delivered by registered mail, courier or email, and the Member will retain proof of delivery.
4. The Member is required to pay the College's costs fixed in the amount of \$1,500, on the date of this Order.

REASONS FOR PENALTY

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate registered early childhood educators. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The penalty should be proportionate to the misconduct.

In considering the joint submission, the Panel was mindful that a jointly proposed penalty should be accepted unless its acceptance would bring the administration of justice into disrepute or it is otherwise not in the public interest.

The Panel is aware that no two cases are exactly alike. However, reviewing earlier cases can help determine the level of appropriate penalty. The Panel therefore considered the previous cases that were presented.

The Member cooperated with the College and, by agreeing to the facts and proposed penalty has accepted responsibility.

The Panel found that the penalty proposed satisfies the principles of specific and general deterrence and public protection. Specifically, the suspension of the Member, along with the reprimand, will act as specific deterrents to the Member, and general deterrents to other members of the profession, preventing them from engaging in such conduct. The Panel found that a suspension is necessary in this case to address the use of force including inappropriate physical behaviour guidance where physical harm was caused, as verified by CAS.

The terms, conditions and limitations imposed as part of the penalty order, including a course in behaviour guidance and the mentoring sessions, will help to rehabilitate the member and educate her regarding best practices for early learning. This will also help to protect the public.

Having considered all of these factors, the Panel was satisfied that the proposed penalty in this case was appropriate and in the public interest.

ORDER AS TO COSTS

Subsection 33(5)(4) of the ECE Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that that this is an appropriate case for costs to be awarded and the amount proposed by the parties is reasonable.

The Panel orders that the Member pay the College its costs, fixed in the amount of \$1, 500.00 on the date of this Order.

I, Lori Huston, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.



Lori Huston, Chairperson

January 18, 2019

Date