

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

Citation: College of Early Childhood Educators vs Susan Eusebio,
2018 ONCECE 1
Date: 2018-03-05

IN THE MATTER OF the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sched. 8 (the
“ECE Act”) and the Regulation (Ontario Regulation 223/08) thereunder;

AND IN THE MATTER OF discipline proceedings against SUSAN EUSEBIO, a current member
of the College of Early Childhood Educators.

PANEL: Kath Gradwell, RECE, Chairperson
Larry O’Connor
Kristine Parsons, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Lara Kinkartz,
CHILDHOOD EDUCATORS)	WeirFoulds LLP,
)	for the College of Early Childhood Educators
- and -)	
)	
SUSAN EUSEBIO)	No Representation
REGISTRATION # 32557)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP,
)	Independent Legal Counsel
)	
)	Heard: January 30, 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”) on January 30, 2018

THE ALLEGATIONS

The allegations against Susan Carvalho Eusebio (the “Member”) as stated in the Notice of Hearing dated December 27, 2017, are as follows:

- 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:
 - i. she failed to provide a nurturing learning environment where children thrived, contrary to 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 maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice;
 - iv. 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;
 - v. 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;
 - vi. 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
 - vii. 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); and
- d. 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 in paragraphs a, b, c and d.

The Panel received a written plea inquiry (Exhibit 3) which was signed by the Member. 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 and the Member advised the Panel that an agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 4), which read as follows.

The Member

1. The Member initially registered with the College as an RECE on May 17, 2011. She has been suspended for the non-payment of fees since September 15, 2016.
2. At all material times, the Member was employed as an RECE at Shoberry's Day Care Centre (the "Centre") in Sutton, Ontario.
3. On November 6, 2015, the Member was terminated from her position as an RECE at the Centre as a result of the incident described below.

Incident on November 5, 2015

4. On November 5, 2015, the Member was supervising a group of toddlers at the Centre. The Member and the group of toddlers were outside for part of the afternoon. The Member recalls that when the group returned indoors, two children ran from the classroom and she had to track them down. The Member also recalls that upon her return to the classroom, she found a 23-month-old toddler hitting other children with a toy, and that he did not listen when the Member repeatedly asked him to stop.
5. The 23-month-old toddler then refused to listen to the Member's direction that he go to the sink in the classroom. In response, the Member grabbed the toddler by his arm, pulled him to the ground, dragged him across the floor of the classroom, and swung him along the floor to the sink.
6. The toddler was screaming and crying during the incident, and the Member yelled at him to stop crying.
7. As a result of the incident, the York Region Children's Aid Society (the "CAS") conducted a child protection investigation. On November 26, 2015, the CAS verified concerns for the Member's caregiving skills and concerns that the Member had placed the toddler at risk of physical and emotional harm.
8. Two parents who had observed the incident were very upset by what they had seen.

College Standards of Practice

9. The Member agrees that the following are standards of the profession that were in force on November 5, 2015, 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 III.A.1 requires RECEs to maintain safe and healthy learning environments.
- d. 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.
- e. 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.
- f. Standard IV.E.2 requires RECEs to avoid conduct that could reasonably be perceived as reflecting negatively on the profession of early childhood education.
- g. Standard V.A.1 requires RECEs not to abuse physically, verbally, psychologically, or emotionally a child under their professional supervision.

Admissions of Professional Misconduct

10. 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* (the “Act”), 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:
 - i. she failed to provide a nurturing learning environment where children thrived, contrary to 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 maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice;
 - iv. 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;
 - v. 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;

- vi. 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
 - vii. 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); and
- 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 paragraphs a, b, c, and d, in the Notice of Hearing in that she has physically, verbally, psychologically, and/or emotionally abused a child who was under her professional supervision; she has failed to maintain the standards of the profession; she has 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 and; she has conducted herself in a manner that is unbecoming a member.

REASONS FOR DECISION

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

The Member admitted to grabbing a toddler, pulling him to the floor, dragging him across and swinging him along the floor to the sink. The Member also admitted that while the toddler was screaming and crying during the incident, she yelled at him to stop crying. The Panel finds that this conduct constitutes physical, verbal, psychological and emotional abuse. The Panel finds that this conduct demonstrates that the Member had no regard for the physical and emotional well-being of the children who were under her care.

Early childhood educators are expected to be caring, empathetic and fair professionals who act with integrity. They are to value the rights of children, respecting the uniqueness, dignity and potential of each child. Rather than demonstrating these qualities in her interactions at the Centre, the Member used physical force and verbal abuse, disregarding children's rights as individuals.

The Member's interaction was not supportive and respectful of children. It did not establish a caring relationship with the child, nor respond appropriately to the needs of this child. The

Member took a physically aggressive approach to guiding a child through a transition, rather than connecting with him as an individual.

The Member's practice did not demonstrate her application of acceptable behaviour management practices. Her actions were harsh and degrading to the child and could reasonably be perceived as reflecting negatively on the profession of Early Childhood Education.

The Member's conduct was investigated by the York Regional Children's Aid Society. They concluded that she had placed a child at risk of physical and emotional harm. This supports a finding that the Member conducted herself in a manner that would be regarded as disgraceful, dishonourable or unprofessional.

The Member also acknowledged that she behaved in a manner that is unbecoming of a member. We agree that this incident is entirely unbecoming.

The Member failed to meet her obligations as a registered early childhood educator.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College submitted that the College still retained jurisdiction over the Member, even though, at the time of the hearing, she was suspended from the College for non-payment of fees.

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:

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 four months. The suspension will take effect from the date the Member obtains a certificate of registration in good standing with the College, and will run without interruption as long as the Member remains in good standing with the College.
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 an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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.
 - b. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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 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 as an RECE or engage in the practice of early childhood education, as defined in section 2 of the Act, 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.
- 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 that resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents and 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 his/her employer(s)).

- e. After a minimum of three 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. For a period of 12 months after the Member commences or resumes employment as an RECE or engages in the practice of early childhood education, as defined in section 2 of the Act, the Member will notify each current and new employer of the decision. To comply, within 14 days of the start or resumption of any such position, the Member must:
 - i. Notify the Director of the name, address and telephone number of all employer(s); and
 - ii. Provide her employer(s) with a copy of:
 1. the Panel's Order,
 2. the Agreed Statement of Facts,
 3. the Joint Submission on Penalty, and
 4. a copy of the Panel's Decision and Reasons, once available.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,250, based on the following schedule:
- a. \$350 to be paid on or before January 30, 2018;
 - b. \$300 to be paid on or before March 30, 2018;
 - c. \$300 to be paid on or before May 31, 2018; and
 - d. \$300 to be paid on or before July 31, 2018.

Each payment above shall be made as a single lump sum payment. Nothing in the payment schedule above prevents the Member from paying the costs award earlier than the specified dates.

5. 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.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon. Counsel for the College submitted that the proposed penalty protects the public interest by serving the functions of general and specific deterrence. Counsel for the College submitted that the proposed penalty is proportionate to the misconduct found and is consistent with the penalties imposed in analogous cases. In this regard, College Counsel provided a number of cases which dealt with similar issues of misconduct and submitted that the proposed penalty was consistent with the range of penalty in those cases. These cases included:

- College of Early Childhood Educators v. Georgina Marie Guyett, (Decision of the Discipline Committee, dated February 27, 2017)
- College of Early Childhood Educators v. Donna Desson, (Decision of the Discipline Committee, dated September 24, 2013)
- College of Early Childhood Educators v. Debbra Ann Warden (Decision of the Discipline Committee, dated March 19, 2015)
- College of Early Childhood Educators v. Karla Coleman (Decision of the Discipline Committee, dated October 19, 2017)

DECISION ON PENALTY AND COSTS

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

1. The Member is required to appear in person to be reprimanded by the Discipline Panel as outlined in s. 33(5)1 of the Act.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of four months. The suspension will take effect from the date the Member obtains a certificate of registration in good standing with the College, 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 as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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.
 - b. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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 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 as an RECE or engage in the practice of early childhood education, as defined in section 2 of the Act, after arranging a mentorship relationship with a pre-approved Mentor (assuming the requirements of subparagraph 3(a) have been met).

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personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).

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 - f. For a period of 12 months after the Member commences or resumes employment as an RECE or engages in the practice of early childhood education, as defined in section 2 of the Act, the Member will notify each current and new employer of the decision. To comply, within 14 days of the start or resumption of any such position, the Member must:
 - i. Notify the Director of the name, address and telephone number of all employer(s); and
 - ii. Provide her employer(s) with a copy of:
 1. the Panel's Order,
 2. the Agreed Statement of Facts,
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4. The Member is required to pay the College's costs fixed in the amount of \$1,250, based on the following schedule:
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 - d. \$300 to be paid on or before July 31, 2018.

Each payment above shall be made as a single lump sum payment. Nothing in the payment schedule above prevents the Member from paying the costs award earlier than the specified dates.

5. 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.

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 for her conduct.

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

An oral reprimand provides the Panel with the opportunity to remind the member of her professional obligations as an early childhood educator.

The suspension of four months, to be applied from the date the Member obtains a certificate of registration in good standing acts a specific deterrent to the Member and general deterrents to other members of the profession, from engaging in such conduct. This also enhances the public's confidence that the College will not tolerate such serious conduct on the part of members.

If the Member returns to practice, she will be rehabilitated through the successful completion of a preapproved behaviour guidance course. Successful completion is defined as a 70% passing grade.

The Member will further be rehabilitated through the specified mentorship relationship and continuous professional learning.

REASONS REGARDING ORDER AS TO COSTS

Subsection 33(5)(4) of the 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.

Costs are not meant to be punitive but to ensure that the member bears the responsibility for paying for part of the actual costs incurred of her misconduct such that the membership does not have to bear the entire costs of one individual's misconduct.

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

Kath Gradwell

March 5, 2018

Kath Gradwell, Chairperson

Date