

**NOTICE OF PUBLICATION BAN**

In the matter of College of Early Childhood Educators and Kelly Anne Eusebio, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of, or any information that could identify, any person who is under 18 years old and is a witness in the hearing, or the subject of evidence in the hearing or under subsection 35.1(3) of the *Early Childhood Educators Act, 2007*.

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

**PANEL:** Barbara Brown, RECE, Chairperson  
Karen Kennedy, RECE  
Rosemary Fontaine

**BETWEEN:** )  
)  
COLLEGE OF EARLY ) Vered Beylin  
CHILDHOOD EDUCATORS ) for the College of Early Childhood Educators  
)  
)  
- and - )  
)  
KELLY ANNE EUSEBIO ) Unrepresented  
REGISTRATION # 51642 )  
)  
)  
)  
)  
) Elyse Sunshine  
) Independent Legal Counsel  
)  
)  
)  
) Heard: March 29, 2019

## 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 March 29, 2019.

### PUBLICATION BAN

The Panel ordered a publication ban following a motion by College Counsel pursuant to section 35.1(3) of the *Early Childhood Educators Act, 2007* (the "ECE Act"). The order bans the public disclosure, publication and broadcasting outside of the hearing room, any names or identifying information of any minor children who may be the subject of evidence in the hearing.

### THE ALLEGATIONS

The allegations against the Member as stated in the Notice of Hearing dated March 12, 2019 (Exhibit 1), are as follows:

1. At all material times, Kelly Anne Eusebio (the "Member") was a member of the College of Early Childhood Educators, working as a registered early childhood educator ("RECE") at Peekaboo Child Care in Brampton, Ontario (the "Centre").
2. At all material times, the Member was an RECE in the toddler classroom and was responsible for caring for toddlers.
3. On or about April 4, 2016 the Member:
  - a. grabbed and/or yanked one or two three-year-old children by the wrists and/or arm and/or hand; and/or
  - b. slapped and/or tapped one three-year-old child on the face with an open hand, leaving a red mark.
4. By engaging in the conduct set out in paragraph 3 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the ECE Act, in that:
  - a. she physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection (3.1 );
  - b. she psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection (3.2);

- c. 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 thrive and families are welcome, contrary to Standard I. D of the College's Standards of Practice;
  - ii. she failed to establish professional and caring relationships with children and/or respond appropriately to the needs of children, contrary to Standard I.E of the College's 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 the College's Standards of Practice;
  - iv. she failed to maintain a safe and healthy learning environment, contrary to Standard Ili.A.1 of the College's Standards of Practice;
  - v. she failed to support children in a culturally, linguistically and developmentally sensitive way and/or to provide caring, stimulating and respectful opportunities for learning and care that are welcoming to children and their families, within an inclusive, well-planned. and. structured environment contrary to Standard III.C.1 of the College's Standards of Practice;
  - vi. she failed to know, understand and abide by the legislation, policies and procedures that are relevant to the Member's professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice;
  - vii. she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College's Standards of Practice;
  - viii. she failed to make decisions and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4. of the College's Standards of Practice;
  - ix. 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 College's Standards of Practice and/or
  - x. she physically, verbally, psychologically or emotionally abused a child who was under her professional supervision, contrary to Standard V.A.1 of the College's Standards of Practice;
- d. 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(1 0); and/or
- e. she acted 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.

The Panel received a written plea inquiry which was signed by the Member (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 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.

### **The Member**

1. The Member has held a certificate of registration with the College for approximately 4 years. She remains in good standing with the College and does not have a prior discipline history with the College.
2. At all material times, the Member was employed as an RECE at Peekaboo Child Care Centre (the "Centre") in Brampton, Ontario.

### **Incidents on April 4, 2016**

#### **Overview**

3. On or about April 4, 2016, the Member was working in the Centre's preschool room and she was preparing the children to go outside. Two of the children, three year-old twin brothers Child #1 and Child #2, were not listening to her. The Member grabbed Child #2 by the wrist, yanked him and quickly began to walk with him (which she described as "speed walking") as she held his wrist. Shortly thereafter, the Member slapped Child #1 on his cheek, which left a red mark.

#### **Background**

4. There were two other staff members in the preschool room at the time of the incident, Chelsea Cameron and Rozina Jiwani. The Member, Ms. Cameron and Ms. Jiwani were assisting the children with putting on their winter clothes so they could go outdoors.
5. Child #1 and Child #2 were running around the classroom. The Member wanted the twins to join the rest of the children in getting ready to go outside. The Member called out to Child #1 and Child #2 by their names and shouted and/or yelled words to the effect of "Let's go, get ready" or "It's time to get ready, come here", but the twins were not listening.

6. Ms. Cameron and Ms. Jiwani told the Member that the twin “always do this”, and that the Member should “just leave them alone”. Ms. Cameron and Ms. Jiwani said they would assist the twins after all of the other children were ready.
7. Instead of waiting, the Member approached Child #2, grabbed him by the wrist, yanked him and quickly began to walk with him (which she described as “speed walking”) as she held his wrist. The Member walked with him to the carpet where she wanted him to get ready.
8. Child #1 began to cry. The Member then placed both of her hands on Child #1’s cheeks, and slapped one of Child #1’s cheeks with her right hand. The slap caused Child #1’s entire cheek to become red and he continued to cry. Child #1 was rubbing his cheek and saying “Ow”.
9. Child #1 approached Ms. Cameron, crying, and stated “Chelsea, Kelly hit me”, while rubbing his cheek. Ms. Cameron put a cold towel on his cheek to soothe it.
10. The Member then approached Child #2, but he ran away from the Member. Child #2 went over to Ms. Jiwani, crying and holding his left hand, wrist and/or arm and said “Kelly hurt me”. Ms. Jiwani did not observe any visible injuries on Child #2.
11. The two incidents were reported to the Centre’s Supervisor by Ms. Cameron. The Centre’s Supervisor contacted Peel Children’s Aid Society (“CAS”). The Centre’s Manager contacted Peel Regional Police.
12. CAS verified the concern that the Member used excessive physical force causing risk of harm to a child. Peel Regional Police cautioned the Member for assault.
13. The Member’s employment with the Centre was terminated as a result of the incident.

**Additional information**

14. If the Member were to testify, she would state that:
  - a. She is remorseful for her actions on the day of the incident;
  - b. If she could change how she handled the situation, she would; and
  - c. She is passionate about being an RECE and working with children;

**Admissions of Professional Misconduct**

15. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 10 above, and as defined in subsection 33(2) of the ECE Act, in that:
  - a. she physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection (3.1);

- b. she psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection (3.2);
- c. 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 thrive and families are welcome, contrary to Standard I.D of the College's Standards of Practice;
  - ii. she failed to establish professional and caring relationships with children and/or respond appropriately to the needs of children, contrary to Standard I.E of the College's 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 the College's Standards of Practice;
  - iv. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;
  - v. she failed to support children in a culturally, linguistically and developmentally sensitive way and/or to provide caring, stimulating and respectful opportunities for learning and care that are welcoming to children and their families, within an inclusive, well-planned and structured environment contrary to Standard III.C.1 of the College's Standards of Practice;
  - vi. she failed to know, understand and abide by the legislation, policies and procedures that are relevant to the Member's professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice;
  - vii. she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College's Standards of Practice;
  - viii. she failed to make decisions and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4 of the College's Standards of Practice;
  - ix. 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 College's Standards of Practice; and/or

- x. she physically, verbally, psychologically or emotionally abused a child who was under her professional supervision, contrary to Standard V.A.1 of the College's Standards of Practice;
- d. 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
- e. she acted 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 all of the acts of professional misconduct set out in the Notice of Hearing as outlined above.

## **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 allegations set out in paragraph 4 in the Notice of Hearing are supported by paragraphs 6 through 13 in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice when her actions exposed the children to emotional and physical abuse. She grabbed one child by the wrist, yanked him and began to walk quickly with him. In addition she slapped another child's cheek, causing the entire cheek to become red. In both instances, her actions caused physical, psychological and emotional harm to the children. CAS verified the concern that the member used excessive physical force, causing risk of harm to a child. Furthermore, the member was cautioned by police for assault.

The Panel finds this conduct to be in direct violation of Regulation 223/08, subsection (3.1) and the Code of Ethics and Standards of Practice.

The Panel noted that the member used poor judgement and unnecessary, inappropriate behaviour guidance in her interactions with these children. She ignored the advice of her colleagues who said they would assist the two children after all the other children were ready.

The Panel finds that the Member's conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional and us certainly unbecoming of a member of the profession.

## **POSITION OF THE PARTIES ON PENALTY**

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

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of six months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
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 ECE 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 of Professional Regulation (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 after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.

- 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, or within 14 days after the release of such documents, whichever is earliest:
  - i. the Panel's Order,
  - ii. the Agreed Statement of Facts,
  - iii. the Joint Submission on Penalty and Costs, and
  - iv. a copy of the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor at least 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 email, registered mail or courier, and the Member will retain proof of delivery.
- g. The College may require proof of compliance with any of the terms, conditions and limitations in this Order at any time.

4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid within 6 months of the date of this Order and in accordance with the following payment schedule:
  - a. \$160 on the date of this Order;
  - b. \$160 by May 1, 2019;
  - c. \$160 by June 3, 2019;
  - d. \$160 by July 2, 2019;
  - e. \$160 by August 1, 2019; and
  - f. \$200 by September 3, 2019.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon.

The College referenced two cases in support of the proposed penalty. While no two cases are alike, these cases were provided to demonstrate that the proposed penalty was in the range of other cases where there was similar conduct at issue (*College of Early Childhood Educators vs Alvez* (unreported at the time of the hearing) and *College of Early Childhood Educators vs Diba Hashimi*, 2018 ONCECE 3).

The College submitted that the prime aggravating factors in this case were:

- the nature of the professional misconduct;
- the age of the children;
- the fact that children were emotionally impacted;
- the slap was strong enough to turn the cheek red;
- the Member ignored instructions from her colleagues and
- that there was no need for the Member to intervene.

The parties agreed that the mitigating factors in this case were that the Member:

- acknowledged wrongdoing and expressed remorse;
- cooperated throughout the investigation;
- pleaded guilty to all the allegations; and
- had no previous findings of misconduct.

The Panel was encouraged to think about the absence of the following aggravating factors:

- the Member's conduct did not cause an actual injury to a child; and
- it was an isolated incident, and not a pattern of behaviour.

## PENALTY DECISION

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

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of six months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
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 ECE 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 of Professional Regulation (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 after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.
- 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, or within 14 days after the release of such documents, whichever is earliest:

- i. the Panel's Order,
    - ii. the Agreed Statement of Facts,
    - iii. the Joint Submission on Penalty and Costs, and
    - iv. a copy of the Panel's Decision and Reasons.
  - d. The Member will meet with the Mentor at least 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 email, registered mail or courier, and the Member will retain proof of delivery.
  - g. The College may require proof of compliance with any of the terms, conditions and limitations in this Order at any time.
- 4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid within 6 months of the date of this Order and in accordance with the following payment schedule:
  - a. \$160 on the date of this Order;

- b. \$160 by May 1, 2019;
- c. \$160 by June 3, 2019;
- d. \$160 by July 2, 2019;
- e. \$160 by August 1, 2019; and
- f. \$200 by September 3, 2019.

## **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.

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

The Panel found that the penalty satisfies the principles of general deterrence and public protection. The proposed suspension is in keeping with the range of suspensions that were imposed in the previous cases that were put before the Panel. This suspension is appropriate given the aggravating factors in this case. The suspension, along with the reprimand, will act as specific deterrents to the Member, and general deterrents to other members of the profession, from engaging in such conduct. The terms, conditions and limitations will help to protect the public. The Member will be rehabilitated through the mentoring process.

## **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 \$1000.00 within six months of the date of this Order.

**I, Barbara Brown sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.**



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Barbara Brown RECE, Chairperson

April 22, 2019

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Date: