

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Victoria Maria Alves, 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 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: Kristine Parsons, RECE, Chairperson
Barbara Brown, RECE
Larry O'Connor

BETWEEN:)
)
COLLEGE OF EARLY) Vered Beylin
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
)
- and -)
)
VICTORIA MARIA ALVES) Mandy Wojcik
REGISTRATION # 04897) for Victoria Maria Alves
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)
)
)
) Elyse Sunshine
) Independent Legal Counsel
)
)
) Heard: December 18, 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 December 18, 2018.

PUBLICATION BAN

The Panel ordered a partial publication ban following a motion by College Counsel pursuant to section 35.1(3) of the *Early Childhood Educators Act, 2007*. 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 November 28, 2018 (Exhibit 1), are as follows:

1. At all material times, Victoria Maria Alves (the "**Member**") was a member of the College of Early Childhood Educators (the "**College**") and employed as a Registered Early Childhood Educator ("**RECE**") at Kids and Company Oakville Ford (the "**Centre**"), a child care centre in Oakville, Ontario.
2. On or about May 11, 2016, during the afternoon outdoor playtime, the Member, along with other staff, were supervising a group of preschool children in the playground.
3. While intervening in an altercation between two children, the Member pushed a two-year-old child forcefully, causing the child to stumble backwards and fall.
4. In addition to pushing the child, the Member yelled at the child and/or used an aggressive tone, stating "stop" and/or said words to the effect of, "that's how it feels." As a result of the Member's actions, the child began to cry.
5. The incident was reported to the Halton Children's Aid Society ("**HCAS**") by the Centre. The HCAS conducted an investigation and, on or about June 8, 2016, the HCAS verified that the Member had used inappropriate physical force on a child, specifically pushing a child.
6. The Member's employment with the Centre was terminated on about May 24, 2016, as a result of the incident.
7. By engaging in the conduct set out in paragraph 2-6 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 failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- b. she verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
- c. she physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
- d. she psychologically and/or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
- e. 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 College's Code of Ethics and Standards of Practice ("**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 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 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 know, understand and abide by the legislation, policies and procedures that are relevant to her 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 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 Standards of Practice;
 - viii. 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

- ix. she physically, verbally, psychologically or emotionally abused a child who was under her professional supervision, contrary to Standard V.A.1 of the Standards of Practice;
- f. 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
- g. 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 a written plea inquiry (Exhibit 3). 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 Counsel for the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 2), which read as follows.

The Member

- 8. The Member initially registered with the College as a RECE on April 3, 2009 and she remains in good standing with the College.
- 9. At all material times, the Member was working as an RECE at the Centre.
- 10. The Member began her employment at the Centre in August 2008. If the Member were to testify, she would advise that she was on a leave of absence from the Centre from April 2015 until late April 2016 while she completed an Educational Support Worker program at Sheridan College.
- 11. The Member's employment with the Centre was terminated on about May 24, 2016, as a result of the incident.

Incident on May 11, 2016

- 12. On or about May 11, 2016, the Member was assigned to work with a group of preschool children at the Centre.

13. During the afternoon outdoor playtime, the Member, along with other staff, was supervising two groups of preschool children in the playground area.
14. The Member observed a two-and-a-half year old boy (the “**Child**”) hit another girl from the group. The girl began to cry.
15. The Member yelled at the Child “stop” and ran to the children. The Member physically intervened by forcefully pushing the Child aside with her hand, causing him to stumble backwards and fall to the ground. The Member then said to the Child words to the effect of “that’s how it feels.”
16. As a result of the Member’s actions, the Child began to cry. The Member sat with the Child and spoke with him for several minutes. If the Member were to testify, she would advise that she explained to the Child that what he did was wrong and discussed the importance of “gentle hands”. The Child continued crying during the conversation.
17. The Child was not injured, and he did not have marks on his body as a result of the fall.
18. The incident was reported that evening to the management, by staff members who observed what happened.
19. The following morning the Centre’s Director, Melissa Korosi-Pereira, met with the Member to discuss the incident. The Member immediately admitted to pushing the Child and expressed remorse for her actions. The Member advised that she was concerned because she had observed the Child engage in repetitive physical behaviours with other children. The Member additionally admitted that she pushed the Child because she “wanted him to know how it felt”, but acknowledged she knew what she did was wrong.
20. The incident was reported to the HCAS by the Centre. HCAS conducted an investigation and on June 8, 2016, the HCAS verified by letter that the Member “used inappropriate physical force on a child, while attempting to redirect the child, specifically forcibly pushing a child”.
21. Following the Centre’s internal investigation and the conclusion of the investigation by HCAS, the Member’s employment with the Centre was terminated.
22. The Member fully cooperated with the College’s investigation of the incident and acknowledged there were other ways in which she could have handled the situation.

College Standards of Practice

23. The Member agrees that the following are standards of the profession, as set out in the College’s Code of Ethics and Standards of Practice:
 - a. Standard I.D requires RECEs to be attuned to the needs of children and families.

- 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 I.F requires RECES to ensure that the needs and best interests of children remain 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 provide caring, stimulating, and respectful opportunities for learning and care that are welcoming to children and their families.
- f. Standard IV.A.2 requires RECEs to know, understand and abide by the legislation, policies and procedures that are relevant to their professional practice and to the care and learning of children under their professional supervision.
- g. 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.
- h. Standard IV.E.2 requires RECEs to avoid conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood education.
- i. Standard V.A.1 requires RECEs not to abuse physically, verbally, psychologically, or emotionally a child under their professional supervision.

Admissions of Professional Misconduct

24. The Member agrees that, by engaging in the conduct set out in paragraphs 3-8 above, she 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:

- j. she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- k. she verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
- l. she physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
- m. she psychologically and/or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
- n. 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 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 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 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 provide caring, stimulating, and respectful opportunities for learning and care that are welcoming to children and their families, contrary to Standard III.C.1 of the Standards of Practice;
- vi. she failed to know, understand and abide by the legislation, policies and procedures that are relevant to her professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the Standards of Practice;
- vii. 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 Standards of Practice;
- viii. 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
- ix. she physically, verbally, psychologically or emotionally abused a child who was under her professional supervision, contrary to Standard V.A.1 of the Standards of Practice;
- o. 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
- p. 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 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 of professional misconduct in the Notice of Hearing are supported by paragraphs five through fifteen in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice when, while under her supervision, the Child hit a girl from the group, causing her to cry. The Member then physically intervened by pushing the Child aside with her hands causing him to stumble backwards and fall to the ground. The Member said to the Child words to the effect of "that's how it feels."

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.

Ms. Alves 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 counsel for the Member made a joint submission as to penalty and costs (Exhibit 4). 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 five 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 practicing 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 *Early Childhood Educators Act, 2007* (“**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 of Professional Regulation of the College (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 employer(s).
- 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 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.
4. Directing that in accordance with section 29(2) of the *Early Childhood Educators Act, 2007* (and as required even in the absence of the Discipline Committee's direction), the Member's suspension, the terms, conditions and limitations imposed on her certificate of registration and a link to the Discipline Committee's decision will be publicly posted on the College's register.
5. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid within 30 days of 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.

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 similar conduct of other cases (see *College of Early Childhood Educators vs Susan Eusebio*, 2018 ONCECE 1 and *College of Early Childhood Educators vs Diba Hashimi*, 2018 ONCECE 3).

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

- Ms. Alves has acknowledged her actions and displayed remorse;
- She has cooperated fully with the centre and the College;
- This was an isolated incident;
- Ms. Alves has been registered with the College for 9 years and had no previous incidents of misconduct; and
- Ms. Alves has pleaded guilty to the allegations thereby saving the college the time and expense of a contested hearing.

The prime aggravating factor(s) in this case were the nature of the professional misconduct involved and the age of child. The child was 2 years old and not developmentally able to defend themselves or report the incident to anyone else. While the child was not physically harmed in the incident, the emotional impact is unknown. The child cried following being pushed and for some time afterwards. The Member did not report the incident herself and only acknowledged her guilt when a co-worker reported it to the Centre supervisor.

PENALTY DECISION

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

1. The Member is required to appear before the Panel to be reprimanded immediately on the date of this Order.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of five 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. 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 a RECE or engaging in 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 Practice 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 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 employer(s).
- 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 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.
6. The Registrar is directed that, in accordance with section 29(2) of the *Early Childhood Educators Act, 2007* (and as required even in the absence of the Discipline Committee's direction), the Member's suspension, the terms, conditions and limitations imposed on her certificate of registration and a link to the Discipline Committee's decision will be publicly posted on the College's register.
7. The Member is required to pay the College's costs fixed in the amount of \$1,000, within 30 days of 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.

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 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. Ordering the Member to participate in a formal mentor relationship with a pre-approved mentor is intended to bring her practice in line with the acceptable College standards, encouraging her to remediate and apply her knowledge and professional skill set. By correcting the errors in her practice, the Member will avoid making similar errors in the future, thus reducing the likelihood of her committing similar acts of professional misconduct.

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 \$1,000 within 30 days of the date of this Order.

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



Kristine Parsons, Chairperson

March 12, 2019

Date