

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

Citation: College of Early Childhood Educators vs Tabatha Antone,
2012 ONCECE 3
Date: 2012-06-28

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

AND IN THE MATTER OF discipline proceedings against Tabatha Antone, a
member of the College of Early Childhood Educators.

PANEL: Ann Hutchings, RECE,
Chair Sophia Tate, RECE
Rosemary Sadlier

BETWEEN:)	
)	
COLLEGE OF EARLY)	M. Jill Dougherty,
CHILDHOOD EDUCATORS)	WeirFoulds LLP,
)	for College of Early Childhood Educators
-and-)	
)	
TABATHA ANTONE)	Tabatha Antone was not present,
REGISTRATION#)	nor was she represented
24692)	
)	
)	Caroline Zayid,
)	McCarthy Tetrault LLP,
)	Independent Legal Counsel
)	
)	Heard: June 28, 2012

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the "Committee") on June 28, 2012 at the College of Early Childhood Educators (the "College") at Toronto.

A Notice of Hearing (Exhibit 1), dated May 29, 2012, was served on Tabatha Antone (the "Member"), requesting her attendance before the Discipline Committee of the College of Early Childhood Educators on June 28, 2012 for a hearing, and specifying the charges. Counsel for the College submitted an Affidavit of Service sworn by Samiyah Aziz, Hearings Coordinator (Exhibit 1), and sworn June 5, 2012, detailing confirmation that the Notice of Hearing was served on the Member.

The hearing was scheduled to commence at 10:00 a.m. on June 28, 2012. The Member did not appear, nor was she represented by legal counsel. The Committee was satisfied that the Member was served with the Notice of Hearing and all disclosure documents and was aware of the time and date of the hearing. The Committee therefore proceeded to hear the matter in the absence of the Member, and commenced the proceedings at 10:30 a.m.

THE ALLEGATIONS

The allegations against Tabatha Antone, as stated in the Notice of Hearing dated May 29, 2012, are as follows:

IT IS ALLEGED that Tabatha Antone, (the "**Member**"), is guilty of professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007* (the "**Act**"), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8);
- (b) she acted 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);
- (c) she failed to comply with the Act and the professional misconduct

regulation made under the Act (being Ontario Regulation 223/08), contrary to Ontario Regulation 223/08, subsection 2(19);

- (d) she contravened a law, the contravention of which is relevant to her suitability to hold a certificate of registration, contrary to Ontario Regulation 223/08, subsection 2(20);
- (e) 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 *Code of Ethics and Standards of Practice*; and
- (f) she conducted herself in a manner that is unbecoming a member and/or engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Ontario Regulation 223/08, subsection 2(22) and Standard IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Tabatha Antone, is (and was at all times relevant to these allegations) a member of the College of Early Childhood Educators (Registration number 24692).
2. On or about April 9, 2011, in the Province of Ontario, the Member was operating a motor vehicle while her driver's licence was under suspension and having consumed alcohol, and was charged with operating a motor vehicle while under suspension. The Member had two children in the vehicle at the time of the incident.
3. On or about June 30, 2011, in the Province of Ontario, the Member was charged by Six Nations Police Service with driving under the influence of alcohol, driving while under suspension and obstructing a police officer.
4. At the time of the alleged conduct described in paragraphs 2 and 3 above, and ending on July 7, 2011, the Member was employed as an early childhood educator at the Six Nations Childcare Resource Centre (the "Centre"), located at 18 Stoneridge Circle, in the City of Ohsweken.
5. On or about July 7, 2011, the Member's employment was terminated by the Centre due to the conduct alleged in paragraphs 2 and 3, and the Member's contravention of the Centre's employment policy regarding off-duty conduct.

MEMBER'S PLEA

As the Member was not present, nor represented by counsel, the Committee proceeded on the basis that the Member denied the allegations set out in the Notice of Hearing. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

THE EVIDENCE

The College called one witness, Carla Martin, RECE, who is employed as a coordinator at the Six Nations Childcare Resource Centre.

Evidence of Ms. Martin

Ms. Martin has been practising as an early childhood educator for the past 27 years. She has been the coordinator at the Centre for approximately four years. A Brief of Documents (Exhibit A) was tendered by the College. Ms. Martin was able to identify all of the documents to which she was referred in the Brief of Documents.

Ms. Martin gave testimony that the Member was employed at the Centre as an early childhood educator for approximately seven years, until July 7, 2011, when the Member's employment at the Centre was terminated. Ms. Martin was the Member's immediate supervisor. During the time of the alleged conduct, the Member was a registered member of the College, and her membership fee for the year 2011 was paid for by the Centre [Exhibit 2(3)].

Ms. Martin indicated that as outlined in the job description of early childhood educators at the Centre [Exhibit 2(1)], the Member was responsible for implementing and maintaining a high quality of programming for children and families, to develop resources that met the needs of the families served by the Centre and to interact with those families in a professional manner. Ms. Martin indicated that the Centre provided services to families that were considered high- risk due to socio-economic status, addiction, separation of families, etc. Additionally, a valid Class G driver's licence and access to a reliable, insured vehicle was required. Ms. Martin testified that there is a van available at the Centre that enables staff to transport children to and from the Centre,

and to get groceries needed for the programs. A Class F driver's licence, paid for by the Centre, was required to drive the van, and the Member was one of its main drivers.

Ms. Martin testified that on April 11, 2011, she received a complaint from one of the Centre's clients indicating that the Member was stopped by the police on the weekend for speeding, driving while under suspension and driving after having consumed alcohol. The client told Ms. Martin that there were children in the vehicle at the time.

On April 11, 2011, Ms. Martin e-mailed Arliss Skye, Director of Social Services; Nora Green, assistant to Ms. Skye; Yvette Martin, Centre Supervisor and Ms. Carla Martin's supervisor; and Stephanie Williams, Employee Relations Officer, seeking direction on what approach should be taken when dealing with the complaint against the Member [Exhibit 2(4)]. In here-mail, Ms. Martin indicated that this was the Member's second offence related to driving while under the influence (the first offence being in 2009), and because the Member's driver's licence was still suspended after the first offence, Centre staff were compensating for the loss of a driver, and programming at the Centre had to be limited since the Member could only work between certain hours.

Ms. Martin testified that the Member's actions, as alleged in the client's complaint, contravened the Centre's *Code of Ethics* related to off-duty conduct [Exhibit 2(5)], which indicates that "an employee's negative conduct could become grounds for a response from the employer if the off-duty conduct harms the employer's reputation or programs; renders the employee unable to perform their duties in a satisfactory manner; leads other employees to be reluctant, unable, or refuse to work with said employee; causes the employee to be guilty of a serious breach of the *Criminal Code*, R.S.C., 1985, c. C-46 (the "*Criminal Code*"); and causes difficulties for the employer in effectively directing and managing its operations and workforce."

On April 12, 2011, Ms. Martin received an e-mailed response [Exhibit 2(5)] from Ms. Williams, and Shirley Bomberry, Benefits Administrator, which provided information as to what accommodations Ms. Martin would have to make for the Member, and suggested that Ms. Martin speak with the Member.

Ms. Martin testified that she met with the Member on April 18, 2011, and provided her with a letter that outlined the client's complaint and plan of action [Exhibit 2(6)]. The Member was to provide a criminal reference check and a copy of her driver's licence or a written letter from the Ministry of Transportation if her driver's licence was under suspension. The Member was also required to answer six questions related to her position as an early childhood educator. During the meeting, the Member indicated that she did not have a drinking problem and that she had personal issues that led to drinking. The Member told Ms. Martin that she would seek help through the Employee Assistance Program (the "EAP")/Women's Shelter Counseling. Ms. Martin testified that the Member admitted to having two children, her son and his friend, both of whom were approximately 9-years old, in the car at the time of the traffic stop.

On April 27, 2011, the Member wrote a letter to Ms. Martin [Exhibit 2(8)] to respond to the complaint made against her and to outline her plan of action, as requested. The Member indicated that on April 9, 2011, she was involved in a traffic stop where she was given a summons to appear in court on charges of speeding and driving while under suspension. The Member maintained that she had not been drinking and was not charged with impaired driving. The Member provided Ms. Martin with the results of a criminal record check obtained from the Six Nations Police Service, a copy of her Driver Abstract from the Ministry of Transportation [Exhibit 2(9)], and an indication that she enrolled in the Workplace Referral Program (Exhibit 3) and intended to seek counseling to deal with issues in her personal life that may be viewed as affecting her professional life. The

Member also indicated that she was committed to finishing the remedial driving program required by the Ministry of Transportation, as an effort to get her licence reinstated as soon as possible. The Member reiterated that she did not think she had a drinking problem, and felt that she had other issues that may cause her to turn to alcohol to deal with them, and hoped to attend counseling to find healthier ways to cope with her issues.

Ms. Martin testified that on May 10, 2011, a meeting took place to discuss the issues regarding the Member [Exhibit 2(10)]. Recommendations were made to re-assign the Member from her duties working with families in the resource centre to working in the daycare setting. This was seen as an appropriate measure to alleviate the need for driving for the planned programs and to remove the Member from working with high-risk families so that she could connect with her own issues. The Member was to also provide an updated criminal record check after June 3, 2011, which was the court date scheduled for the April 9, 2011 traffic violations, in order for the Centre to obtain the outcome of the trial and proof of charges, if any. Ms. Martin indicated that the outcome of the trial was not known. The Member was to also provide the dates she would be attending the EAP, and the dates, names and contact information of other services she would be utilizing so that the Centre could do follow-ups to ensure the programs were indeed being utilized, since failure to complete the programs would result in further action being taken by the Centre.

Ms. Martin stated that Ms. Williams and Ms. Bomberry received an e-mail on July 5, 2011 from Julia Marinos, Workplace Support Program Coordinator, indicating the Member did not show up for her EAP appointment on July 4, 2011 [Exhibit 2(11)].

Ms. Martin testified that the Member was involved in another incident on June 30, 2011. She became aware of this when her daughter asked her if the Member was alright. Ms. Martin's daughter had the Member as a friend on Facebook, and there

was a status update that concerned her. The status update, allegedly posted by the Member, indicated that the Member was "sitting at the Six Nations jail" . When Ms. Martin arrived at the Centre on the following Monday, the Member was speaking with co-workers about what happened. Ms. Martin indicated that she had received approximately 27 text messages from community members regarding the Facebook posting, some of whom were questioning how the Member could still work at the Centre and when she will learn her lesson.

On July 5, 2011, Ms. Martin met with the Member, along with Ms. Yvette Martin, to discuss the incident that occurred on June 30, 2011. According to the meeting notes [Exhibit 2(12)], Ms. Martin testified that the Member was charged with driving under the influence of alcohol, driving while under suspension and obstructing a police officer. The Member admitted to Ms. Martin and Ms. Yvette Martin that she had spent the night in Six Nations' jail, she realized that she had a problem and she had contacted New Directions and Native Horizons for rehabilitation. The Member also admitted to taking the drug cocaine since June 3, 2011 but had not taken it since June 28, 2011. Additionally, the Member admitted that she had suicidal feelings and showed Ms. Martin and Ms. Yvette Martin cuts on her left wrist. The Member indicated that she was not healthy at the time to work, and she felt pressured to speak openly with co-workers about what happened because she was questioned about the incident and it was on Facebook, therefore she could not deny its occurrence. The Member was given a letter notifying her that her actions dishonoured the *Six Nations Council Employment Policy, Chapter 11.9, Off Duty Conduct*, that she breached the agreement in her written plan of action [Exhibit 2(8)] by failing to attend the July 4, 2011 EAP appointment, and that she was suspended with pay until the investigation into her conduct was completed.

Ms. Martin indicated that as a result of the Member's conduct and failure to follow

through with the counseling and EAP, the Member's employment with the Centre was terminated effective July 7, 2011 [Exhibit 2(13)]. Ms. Martin testified that she filed a complaint with the College [Exhibit 2(16)] because the Member was not healthy to work with children, and she did not want other employers to experience this type of behaviour with the Member. Counsel for the College entered into evidence the following additional documents:

Certified Copy of Court Information- 111631 [Exhibit 2(17)]

The evidence presented in the court document confirms that on or about January 3, 2012, the Member pled guilty to and was convicted in the Central South Region by the Ontario Court of Justice in Brantford of the following charges:

- (a) that she on or about the 30th day of June, 2011 at the Township of Tuscarora in the said Region, while her ability to operate a motor vehicle was impaired by alcohol, had the care or control of a motor vehicle, contrary to paragraph 253(1)(a) of the *Criminal Code*; and
- (b) that she on or about the 30th day of June, 2011 at the Township of Tuscarora in the said Region, without reasonable excuse, refused to comply with a demand made to her by a peace officer under subsection 254(3) of the *Criminal Code* in the circumstances therein mentioned to provide then, or as soon thereafter as practicable, such samples of her breath as in the opinion of a qualified technician referred to in section 254 of the *Criminal Code* are necessary to enable a proper analysis to be made in order to determine the concentration, if any, of alcohol in her blood, and to accompany the peace officer for the purpose of enabling such samples to be taken, contrary to subsection 254(5) of the *Criminal Code*.

Further, on or about January 3, 2012, the following sentence was imposed on the Member:

(a) For the one count of impaired driving:

- i. imprisonment for a term of 30 days; and
- ii. driving prohibition for a period of two years.

(b) For the one count of refusal to provide a breath sample:

- i. imprisonment for a term of 30 days, to be served concurrently; and
- ii. driving prohibition for a period of two years, to be served concurrently.

Transcript of Proceedings at Guilty Plea [Exhibit 2(18)]

The *Transcript of Proceedings on Guilty Plea* before the Honourable Justice D. Cooper at Brantford, Ontario, dated January 3, 2012, outlines the Member's guilty plea to the charges against her.

SUBMISSIONS OF COLLEGE COUNSEL AS TO FINDING

Counsel for the College submitted that the Member's conviction for "impaired driving (for a second time), refusing a breathalyser test, and driving under suspension with children in the car are relevant to the Member's suitability to practise as an early childhood educator in that they reflect negatively on her judgment and responsibility." Specifically, the offences reflect on the Member's capacity to care for children responsibly, in a safe and appropriate environment for care, and in good judgment. Counsel for the College also submitted that the offences were not isolated incidents, but a pattern of driving infractions involving alcohol, and that they occurred in the context of the Member's acknowledged "drinking problem" and use of cocaine and her failure to follow through with intervention programs.

Counsel for the College indicated that the critical issue in this matter is whether the Member's off-duty conduct has a negative reflection on the Member as a member of the

College. Counsel for the College submitted that the off-duty conduct not only reflected negatively on the Member as a member of the College, in that the conduct was disgraceful, dishonourable, unprofessional and unbecoming a member, but that the off-duty conduct reflected negatively on the College itself and the profession of early childhood education.

DECISION

i. Onus and Standard of Proof

The College bears the onus of proving the allegations contained in the Notice of Hearing on a balance of probabilities (more likely than not), based on clear, convincing and cogent evidence, in accordance with the Supreme Court of Canada's decision in *F.H. v. McDougall*, [2008] 3 S.C.R. 41.

ii. Findings of Fact

The Committee finds the following as facts:

1. Tabatha Antone, is (and was at all times relevant to these allegations) a member of the College of Early Childhood Educators (Registration number 24692).
2. On or about April 9, 2011, in the Province of Ontario, the Member was stopped for speeding and operating a motor vehicle while her driver's licence was under suspension. The Member had her son and his friend in the vehicle at the time of the incident.
3. On or about June 30, 2011, in the Province of Ontario, the Member was charged by Six Nations Police Service with driving under the influence of alcohol, refusing to provide a breath sample, and obstructing a police officer.

4. At the time of the alleged conduct described in paragraphs 2 and 3 above, the Member was employed as an early childhood educator at the Centre, located at 18 Stoneridge Circle, in the City of Ohsweken.
5. On or about July 7, 2011, the Member's employment was terminated by the Centre due to the conduct alleged in paragraphs 2 and 3, and the Member's contravention of the Centre's employment policy regarding off-duty conduct.
6. On January 3, 2012, the Member pled guilty to the charges of driving under the influence of alcohol and refusing to provide a breath sample, as described in paragraph 3 above. For each charge, the Member was sentenced to spend 30 days in jail and given a two-year driving prohibition, to be served concurrently.

iii. Decision

Having considered the evidence and onus and standard of proof, and the submissions made by counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Tabatha Antone committed

acts of professional misconduct as alleged, more particularly breaches of the *Early Childhood Educators Act, 2007*, paragraphs 33(2)(a) and (c), Ontario Regulation 223/08, subsections 2(8), (10), (19), (20) and (22), and Standard IV.A.2 and Standard IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

REASONS FOR DECISION

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee* of the College of Early Childhood Educators allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted.

It is uncontested that on or about January 3, 2012, the Member pled guilty to and was convicted of: one count of operating a motor vehicle while impaired, contrary to paragraph 253(1)(a) of the *Criminal Code*, and one count of refusing to comply with a demand of a peace officer to provide a breath sample, contrary to subsection 254(5) of the *Criminal Code*.

For each count, the Member was sentenced to spend 30 days in jail and given a two-year driving prohibition, to be served concurrently.

These convictions are contraventions of a law, the contraventions of which are relevant to the Member's suitability to hold a Certificate of Registration, contrary to Ontario Regulation 223/08, subsection 2(20). The conduct resulting in the convictions showed a lack of good judgment and a lack of responsibility. The relevance of the conduct was illustrated by the impact of her previous driving suspension on her professional responsibilities. The Member was first charged for operating a motor vehicle while under the influence of alcohol in April 2009, and then convicted of that charge on October 1, 2009. As a result of the conviction, the Member's driver's licence was suspended until October 1, 2010, and the Member was required to complete a remedial program. On October 1, 2010, the Member's driver's licence was once again suspended because she failed to complete the remedial program.

As a result of the Member's driver's licence being suspended, the Centre's programming was impacted, and by extension, so too were the children and community that the Centre

serves. The Member was restricted to working between certain hours, and because she was unable to drive the Centre's van for the purposes of carrying out the Centre's work, programming at the Centre had to be limited, and other staff became overburdened with the duties the Member was unable to do.

Additionally, regarding the conduct that resulted in the charges on June 30, 2011, the Committee finds that the Member failed to abide by the policies that are relevant to her professional practice, contrary to Standard IV.A.2 of the College's *Code of Ethics and Standards of Practice*. The Centre's policy on off-duty conduct explicitly states that "the employer may respond to an employee's off-duty conduct if it harms the employer's reputation or programs, renders an employee unable to perform their duties in an unsatisfactory manner, leads other employees to be reluctant, unable, or refuse to work with said employee, causes the employee to be guilty of a serious breach of the *Criminal Code* and thus is injurious to the general reputation of the employer and its employees, or causes difficulties for the employer in effectively directing and managing its operations and workforce." The Member admitted in the meeting of July 5, 2011 with Ms. Martin [Exhibit 2(12)] that she felt pressured to openly discuss the June 30, 2011 incident with her co-workers in the Centre as the incident was posted on Facebook and she could not deny it occurring. The Committee finds that the Member was responsible for exposing her personal matters to the public, not only in a public forum, but within the Centre itself, which in turn harmed the Centre's reputation and programs, especially since the Member worked with high-risk families. Although there was no evidence provided that the Member's conduct while on duty was inadequate, the Committee is of the opinion that the Member's off-duty conduct did reflect negatively on the Centre within the context of the community.

The Committee has evidence, by the Member's own admission to Ms. Martin through a letter [Exhibit 2(8)], that the Member continued to operate a motor vehicle after October 1, 2010, even though her driver's licence was still suspended. On April 9, 2011, the Member, while driving, was stopped by the police and given a summons to appear in court on charges of speeding and driving while under suspension. The Committee notes that the Member indicated to Ms. Martin in a meeting on April 18, 2011, that she was taking her son's friend home at the time when she was stopped. The Driver Abstract from the Ministry of Transportation confirms that the Member's driver's licence was suspended at the time. The Committee finds that the Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8); acted in a manner that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); failed to comply with the Act and the professional misconduct regulation made under the Act, acting contrary to Ontario Regulation 223/08, subsection 2(19); and engaged in conduct 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 *Code of Ethics and Standards of Practice*. By willfully driving with children in the car while her driver's licence was suspended, the Member had put the children in her care at risk of harm or injury. This behaviour is irresponsible and shows poor judgment, and would reasonably be regarded by members as conduct unbecoming a member of the profession, contrary to Ontario Regulation 223/08, subsection 2(22).

The Committee notes that the April 9, 2011 incident was brought to Ms. Martin's attention by a community member, who was also a client of the Centre. The client was very concerned because the Member, as an employee, represented the Centre and worked with children. The incident inevitably caused the Member's professional character and integrity to be questioned. Among their roles and responsibilities, early

childhood educators are entrusted with caring for the children of others and are to set positive examples. While the Committee acknowledges that the Member was off duty at the time of the incident, her conduct could reasonably be perceived by clients as an impediment in the performance of her job as an early childhood educator. The Committee stresses that the public will hold early childhood educators to a higher standard of conduct since they work with children, and it is not unreasonable to expect that they should be seen as positive role models in the community and not engage in conduct that could reasonably be perceived as reflecting negatively on the profession of early childhood education. Additionally, the Member herself indicated in her letter to Ms. Martin that as an early childhood educator, she saw one of her roles and responsibilities as being a positive role model to families in her care. The Committee is of the opinion that the role of a positive role model does not necessarily end when an early childhood educator's shift for the day ends. The Member's conduct could or would give (and, in this case, has given) rise to public concern, unease and distrust of her ability to perform her employment duties as an early childhood educator.

SUBMISSIONS OF COLLEGE COUNSEL AS TO PENALTY

Counsel for the College submitted that the appropriate penalty would be as follows:

1. The Registrar be directed to suspend the Member's Certificate of Registration for a period of six (6) months from the date of the Discipline Committee's decision and order, with three (3) months remitted for recognition of the interim suspension already in effect by order of the Executive Committee.
2. A direction that the Discipline Committee's full decision be published with identifying information on the College website, a notation of the Discipline Committee's finding and order be recorded on the register, and a summary of the Discipline Committee's finding and order be published, with the Member's

name, in the College's official publication, *Member Newsletter*.

Counsel for the College submitted that the proposed penalty ought to be accepted as it protects the public interest, is a specific deterrent to the Member and is a general deterrent to other members of the College. As well, publication of the Committee's finding and order serves to educate the profession and the public, promotes transparency and underlines that this type of conduct is not acceptable and the College will effectively discipline its members for professional misconduct.

Counsel for the College also submitted that the proposed penalty is appropriate given the aggravating factors. The Member's misconduct was not a single incident- there was a course of conduct that became known in the community and affected the Centre where she worked. As well, the conduct put children at risk of harm or injury. A further aggravating factor is the fact that the Member has not participated in the disciplinary proceedings and has not cooperated with the College, despite the College's attempts to contact and provide her with opportunities to respond to the allegations and participate in the disciplinary proceedings. A mitigating factor is that the criminal offence is on the lower end of the scale of severity and is not an offence of dishonesty or moral turpitude.

PENALTY DECISION

After considering the submissions of counsel for the College, the Committee makes the following order as to penalty:

1. The Registrar is directed to suspend the Member's Certificate of Registration for a period of six (6) months, commencing on the date of the Discipline Committee's decision and order (being June 28, 2012), with three (3) months remitted for the suspension already in effect as a result of the interim order of the Executive Committee to suspend the Member's Certificate of Registration.

2. The Registrar is directed to impose the following terms, conditions and limitations on the Member's Certificate of Registration:
 - a. The Member shall not commence employment in any position for which a Certificate of Registration is required until the Member has provided to the Registrar evidence, satisfactory to the Registrar, of the following:
 - i. That the Member has undergone a professional assessment with respect to alcohol and substance use; and
 - ii. That the Member has complied with any treatment or other recommendations resulting from any assessment.
3. The Discipline Committee's full decision shall be published with the Member's name on the College's website, the Discipline Committee's finding and order shall be recorded on the register, and the Discipline Committee's finding and order (or a summary thereof) shall be published, with the Member's name, in the College's official publication, *Member Newsletter*.

REASONS FOR PENALTY DECISION

The Committee concluded that the proposed penalty is reasonable and serves and protects the public interest. However, the Committee is of the opinion that terms, conditions and limitations are warranted to be imposed on the Member's Certificate of Registration for the reasons set out below.

The Committee noted that the conviction for operating a motor vehicle while under the influence of alcohol was the Member's second conviction for such an offence, which suggests a pattern of behaviour of driving offences involving alcohol.

As a result of the Member's failure to attend scheduled counseling appointments , admission to cocaine use between June 3, 2011 and June 28, 2011 , and admission to having a problem with alcohol, the Committee finds that the April 9, 2011 and June 30, 2011 incidents were not isolated lapses in judgment but a pattern of negative behaviour, and that the Member's professional judgment was indeed impaired, thereby affecting her suitability to practise as an early childhood educator .

The suspension of her Certificate of Registration will serve as a deterrent to the Member . The Committee agreed that it is appropriate for the final three months of the suspension of the Member's Certificate of Registration to be remitted in recognition of the suspension that was already in effect, as of February 23, 2012, as a result of the interim order of the Executive Committee to suspend her Certificate of Registration.

The imposition of the terms, conditions and limitations on the Member's Certificate of Registration will be rehabilitative to the Member as it will assist her in obtaining the necessary treatment required to appropriately cope with the issues she is experiencing . As the Member has not cooperated with the College in any respect, the imposition of the term, conditions and limitations also serves to protect the public interest by ensuring that the Member cannot work in any position that requires a Certificate of Registration unless she has proven, by providing evidence that is acceptable to the Registrar, that she is capable and fit to work in such a position.

Publication of the findings and order of the Committee with the name of the Member serves as a further deterrent to the Member and a general deterrent to members of the profession, sending a message that such conduct by a member of the College is not acceptable and has consequences. Additionally, it promotes transparency and reassures the public that when a member's pattern of irresponsible behaviour affects their ability to carry out their professional duties or reflects negatively on the profession, the College will take action.

Members have a professional and moral duty to set a positive example of responsible behaviour.

In conclusion, the Committee is confident that the penalty serves the interests of the public and the profession.

Dated: June 28, 2012



Ann Hutchings, RECE
Chair, Discipline Panel



Sophia Tate, RECE
Member, Discipline Panel



Rosemary Sadler
Member, Discipline Panel