

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

Citation: College of Early Childhood Educators vs Rebecca Coleman,
2014 ONCECE 3
Date: 2014-12-19

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 REBECCA COLEMAN, a current
member of the College of Early Childhood Educators.

PANEL: Rosemary Fontaine, Chair
Eugema Ings, RECE
Madeleine Champagne

BETWEEN:)	
COLLEGE OF EARLY CHILDHOOD	)	Jill Dougherty,
EDUCATORS	)	WeirFoulds LLP,
	)	for the College of Early Childhood Educators
- and -)	
)	
REBECCA COLEMAN	)	Paul Brooks,
REGISTRATION # 46381	)	Lerners LLP,
	)	for Rebecca Coleman
)	
)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	Independent Legal Counsel
)	
	)	Heard: December 19, 2014

REASONS FOR DECISION, DECISION AND ORDER(S)

1. This matter came on for a hearing before a panel of the Discipline Committee (the “Committee”) on December 19, 2014 at the College of Early Childhood Educators (the “College”) at Toronto.
2. Counsel for the College tendered a Hearing Brief of Documents containing a Notice of Hearing dated October 7, 2014 (Exhibit 1). The Notice of Hearing was served on Rebecca

Coleman (the “Member”) specifying the charges and requesting the Member’s attendance before the Discipline Committee on November 5, 2014 to set a date for a hearing. Attached as an appendix to the Notice of Hearing, counsel for the College submitted an Affidavit of Service sworn by Lisa Searles, Hearings Coordinator and sworn on November 12, 2014, detailing confirmation that the Notice of Hearing was served on the Member. Attached as an appendix to the Notice of Hearing, counsel for the College tendered a Consent form dated November 4, 2014, indicating that both parties consented to hold the hearing on December 19, 2014.

3. The Member was in attendance at the hearing and was represented by legal counsel.

THE ALLEGATIONS

4. The allegations against the Member, as stated in the Notice of Hearing, are as follows:

IT IS ALLEGED that Rebecca Coleman, RECE (the “Member”), is guilty of professional misconduct as defined in subsection 33(2) of the ECE Act, in that:

- (a) She failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8) in that:
 - i. She failed to make reasonable efforts to familiarize herself with available information regarding the relevant family circumstances of a child under her professional supervision, contrary to Standard I.B of the College’s Standards of Practice;
 - ii. She failed to ensure that in her relationship with the child’s family, the needs and best interests of the child were paramount, contrary to Standard I.F of the College’s Standards of Practice;
 - iii. She failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College’s Standards of Practice;
 - iv. She failed to 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; and,

- v. She failed to work collaboratively with colleagues in the workplace in order to provide safe, secure, healthy and inviting environments for children and families, contrary to Standard IV.C.1 of the College's Standards of Practice.
 - (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 contravened a law that has caused or may cause a child who is under her professional supervision to be put at or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21).
5. Counsel for the College submitted an affidavit signed on November 27, 2014 by S.E. Corke, Registrar and Chief Executive Officer of the College (Exhibit 2). The affidavit states that Ms. Coleman is a member of the College, her current registration status is "Current Member" and it outlines the historical changes that occurred since the Member was issued a Certificate of Registration.

AGREED STATEMENT OF FACTS

6. Counsel for the College advised the Committee that an agreement had been reached on the facts and evidence submitted into evidence. Counsel for the College submitted an Agreed Statement of Facts, signed December 15, 2014 (Exhibit 3). The Agreed Statement of Facts provides as follows:
- (a) Now and at all times relevant to the Allegations in the Notice of Hearing, Ms. Rebecca Coleman (the "Member") was registered as an early childhood educator with the College of Early Childhood Educators (the "College").
 - (b) In or about February 2010, the Member was employed as a teacher's assistant at the St. Thomas Early Learning Centre (the "Centre").
 - (c) On or about October 7, 2013, the Member and her direct Supervisor, Deanne Albic, RECE, were informed by the foster parent (grandmother) of [Child 1] that human bite marks had been found on the [Child 1]. Neither the Member nor her supervisor reported this information to Family and Children's Services, St.

Thomas & Elgin (“Family and Child Services”). If the Member were to testify, she would state that she did not contact Family and Child Services as she believed that the foster parent (grandmother) had already reported the incident; and, therefore, she was not required to report it.

- (d) On or about October 23, 2013, the Executive Director of the Centre, Patricia Riddell-Laemers, RECE, issued the Member and Ms. Albic a written document entitled “Employee Concern” regarding her responsibilities when possible child abuse is suspected. Attached as Exhibit “A” to this Agreed Statement of Facts is the written “Employee Concern” that was issued to the Member.
- (e) On or about May 28, 2014, the Member was informed by her colleague, Kelly High, RECE, that bruises had been discovered on [Child 1]’s back. Ms. High had discovered the bruises when she examined [Child 1]’s back after she thought she pinched him when grabbing his shirt. After the Member assessed the bruising on [Child 1]’s back, she notified her Director, Stephanie Smith. She then documented the bruises with an observational note which was placed in [Child 1]’s file and is attached as Exhibit “B” to this Agreed Statement of Fact. The Member did not report information relating to the bruises to Family and Child Services.
- (f) If the Member were to testify at a contested hearing, she would state that after consulting with Ms. Smith, she did not report information relating to the bruises found on [Child 1]’s back to Family and Child Services because she was told by Ms. Smith that it was not necessary as the bruises looked old. However, if called to testify at a contested hearing, Ms. Smith would testify that she was told by Ms. Coleman that Ms. Coleman did not think that the bruises on [Child 1]’s back warranted a report to Family and Child Services as they appeared to have been caused by [Child 1] rocking in his chair. Ms. Smith would also say that she did not observe the bruises and indicated to Ms. Coleman that she would be supported if Ms. Coleman decided to make a report to Family and Child Services. Ms. Smith would further testify that Ms. Coleman did not report to her that Ms. High had grabbed [Child 1] by the shirt, that she was not provided with the observational note that was generated by the Member in respect of the incident and that the observational note did not conform with the Centre’s policies and procedures for documenting incidents with respect to children under their care.
- (g) On June 10, 2014, as the Member was leaving the Centre to go home, the foster parent of [Child 1] indicated to the Member that [Child 1] had received a burn mark on his arm while visiting his biological father. The Member did not report this information to Family and Children Services at that time.
- (h) On June 11, 2014, at approximately 4:34 p.m., the police and Family and Children Services came to the Centre to investigate a disclosure of possible child abuse against [Child 1]. Ms. Riddell-Laemers contacted the Member and informed

her that the police and Family and Child Services were at the Centre conducting an investigation.

- (i) On June 11, 2014, after her conversation with Ms. Riddell-Laemers, at approximately 6:01 p.m., the Member contacted Family and Children Services by phone and reported the incident.
- (j) On June 11, 2014, after her conversation with Family and Children's Services, the Member contacted Ms. Smith by phone to inform Ms. Smith that on June 10, 2014, she was informed that [Child 1] was burned by his biological father's cigarette; and, that the Member had just reported the information to Family and Children Services.
- (k) On June 12, 2014, the Member's employment with the Centre was terminated.
- (l) The parties agree that these facts are substantially accurate.
- (m) Ms. Coleman admits that by reason of the facts set out above, she engaged in professional misconduct, as defined in subsection 33(2) of the ECE Act, in that:
 - i. She failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8) in that:
 - 1. She failed to make reasonable efforts to familiarize herself with available information regarding the relevant family circumstances of a child under her professional supervision, contrary to Standard I.B of the College's Standards of Practice;
 - 2. She failed to ensure that in her relationship with the child's family, the needs and best interests of the child were paramount, contrary to Standard I.F of the College's Standards of Practice;
 - 3. She failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;
 - 4. She failed to 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; and,
 - 5. She failed to work collaboratively with colleagues in the workplace in order to provide safe, secure, healthy and inviting environments for children and families, contrary to Standard IV.C.1 of the College's Standards of Practice.

- ii. She acted in a manner that, having regard to the circumstances, would reasonably be regarded by members as dishonourable and unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10).
 - iii. She contravened a law that has caused or may cause a child who is under her professional supervision to be put at or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21).
- (n) The Member understands the nature of the allegations that have been made against her and that by voluntarily admitting to these allegations; she waives her right to require the College to otherwise prove the case against her.
- (o) The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
- (p) The Member understands that the panel's decision and reasons may be published, including the facts contained herein along with her name.
- (q) The Member understands that any agreement between her and the College does not bind the Discipline Committee.
- (r) The Member and the College consent to the panel viewing the Notice of Hearing, this Agreed Statement of Facts and the Joint Submission as to Penalty prior to the start of the hearing.

DECISION

7. Having considered the Exhibits filed, and based on the Agreed Statement of Facts and guilty plea, and the submissions made by College counsel and counsel for the Member, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Rebecca Coleman, the Member, committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 223/08, section 2, subsections 2(8), 2(10), 2(21) and Standards I.B, I.F, III.A.1, IV.A.2 and IV.C.1 of the College's Code of Ethics and Standards of Practice.

REASONS FOR DECISION

8. The Committee finds the Member to be guilty of professional misconduct based on the admitted facts and allegations, as well as her guilty plea contained in the Agreed Statement of Facts. The facts in the agreement were uncontested by the Member and she acknowledged that her conduct under examination constituted professional misconduct. As such, the Committee accepts the Agreed Statement of Facts and the Member's plea.

9. The Member failed to comply with her reporting obligations under the *Child and Family Services Act*, and in so doing, allowed a child to remain in a harmful and injurious environment, contrary to Ontario Regulation 223/08, section 2, subsection 21. On multiple occasions, it was brought to the Member's attention that a child in her care may be the victim of abuse. Despite learning of concerns from the child's foster parent and observing signs of abuse, the Member did not alert the appropriate authorities as quickly as she should have. Consequently, the needs of a child in dire need of help, were unmet and the child continued to be subjected to acts of violence. The Member's inaction suggests that she was unfamiliar with the [Child 1]'s family situation, contrary to Standard I.B, as she did not recognize that [Child 1] was susceptible to abuse. It was not a single event that suggested [Child 1] was at risk of harm, but a series of incidents that the Member should have acted on. While it does not appear that the Member's intention was to harm [Child 1], her inaction and her failure to carry out her obligations as an educator who has responsibilities to care for [Child 1], put [Child 1]'s health, safety and well-being at risk.

10. The Member was aware that an educator had accidentally pinched [Child 1] at the Centre and she neglected to alert her supervisor. By withholding this information, she failed to work collaboratively with her colleague to provide a safe and healthy learning environment, contrary to Standard IV.C.1. As a result, the Supervisor was unable to take the necessary

steps to prevent similar incidents from occurring in the future, which compromised the health and safety of the learning environment. In a profession where one's collaboration with their colleagues is integral to providing a safe, secure, healthy and inviting environment for children, the Member's failure to work collaboratively jeopardized the children's well-being.

11. Furthermore, the Member failed to abide by the Centre's policies and procedures relating to documenting incidents. Although the Member did create an observational note to document the extensive bruising she discovered on [Child 1]'s back, the documentation of the incident did not comply with the Centre's expectations, contrary to Standard IV.A.2.

12. The Member's actions fail to meet the standards of the profession and would be considered by the membership to be dishonourable and unprofessional for a member of the College and as such, are direct violations of subsections 2(8), 2(10) and 2(21) of the Professional Misconduct Regulation.

JOINT SUBMISSION ON PENALTY

13. College counsel submitted a Joint Submission as to Penalty signed by the Member on December 15, 2014 (Exhibit 4), which provides as follows:
 - (a) Ms. Rebecca Coleman ("Ms. Coleman" or the "Member") shall be reprimanded by the Discipline Committee and the fact of the reprimand shall be recorded on the register.

 - (b) The Registrar shall be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register, requiring the Member, at her own expense, to successfully complete a course in Ethics and Professional Standards. The course must be approved by the Registrar and must be completed within three (3) months from the date of the Committee's Order. So long as the Member is demonstrating that she is actively seeking completion, or is on a waiting list, she shall be seen to be compliant with this term

provided that she does complete a course within a reasonable period of time.

- (c) The results of the hearing shall be recorded on the Register.
- (d) The Discipline Committee's finding and Order shall be published, with the Member's name, in full on the College's website and in summary in the College's publication, *Connexions*.
- (e) The Member and the College agree that if the Committee accepts this Joint Submission as to Penalty, there will be no appeal of the Committee's decision to any forum.

14. Counsel for the College submitted that the Committee should accept the joint submission as it is an appropriate and reasonable penalty for the misconduct found, and satisfies the College's duty to protect the public interest. College counsel indicated that in past hearings, the Committee has accepted joint submissions as to penalty, adding that while such submissions are not binding on the Committee, both the Ontario Court of Appeal and the Divisional Court have held that joint submissions should not be rejected unless the Committee is of the view that it is "contrary to the public interest" and would "bring the administration of justice into disrepute."

15. College counsel stated that the overarching principles in Discipline Committee hearings are specific and general deterrence. Specific deterrence is devised to ensure that the Member will not repeat an act of professional misconduct, while general deterrence is devised to inform other professionals of the type of penalty that awaits them should they err in a similar fashion.

16. College counsel stated that the agreed upon penalty is appropriate, reasonable and satisfies the College's duty to protect the public interest. College counsel elaborated, and addressed the individual elements of the proposed penalty. A reprimand allows the College to dialogue with the Member and to convey to her the disapproval of her

conduct. Completing a course in “Ethics and Professional Standards,” is not intended to be punitive but rather remedial and educational. Finally, the publication of the Member’s conduct is an important and appropriate measure for the protection of the public at large and serves as a general deterrent to College Members.

17. College counsel stated that the seriousness of the matter and the series of incidents were aggravating factors, while the Member’s discipline-free history and willingness to enter into an Agreed Statement of Facts were mitigating factors. College counsel submitted that the proposed penalty took both the aggravating and mitigating factors into consideration.

18. Counsel for the Member submitted that the joint penalty addresses the principles of specific and general deterrence, and is appropriate given the nature of the professional misconduct at hand. Moreover, the shame and embarrassment brought upon the Member through this process is especially effective in discouraging future misconduct. Counsel for the Member asserted that given the high standards of the College, it is easy for Members to misstep and fall from grace.

19. Counsel for the Member submitted that over the course of her four year history at the Centre, the Member has maintained a discipline-free record prior to this matter, thus demonstrating that she is otherwise capable of upholding her responsibilities as an RECE. The Member’s misconduct was not pre-meditated or influenced by personal gain, but rather an inadvertent mistake that she is unlikely to make again. Counsel for the Member stated that the Member is remorseful and recognizes the mistakes she has made, which is demonstrated by her willingness to enter into the Agreed Statement of Facts and Joint Submission as to Penalty.

PENALTY DECISION

20. After considering the joint submission made by College counsel, the Committee makes the following order as to penalty:

- (a) The Member shall appear before the Discipline Committee immediately following the hearing to receive a reprimand, and the fact of the reprimand shall be recorded on the College's register.

- (b) The Registrar shall be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the register, requiring the Member, at her own expense, to successfully complete a course in "Ethics and Professional Standards." The course must be approved by the Registrar and must be completed within three months from the date of the Committee's Order. So long as the Member is demonstrating that she is actively seeking completion, or is on a waiting list, she shall be seen to be compliant with this term provided that she does complete the course within a reasonable period of time.

- (c) The Discipline Committee's finding and order shall be published, with the Member's name in full on the College's website and in summary in the College's official publication, *Connexions*.

REASONS FOR PENALTY DECISION

21. In matters where there is a joint submission as to penalty, the task before the Committee is to determine whether or not the submission falls within an appropriate range of penalty given the Member's misconduct. It must also ensure that the adopted penalty meets the requirements of specific deterrence, general deterrence and protection of the public

interest. While such submissions are not binding on the Committee, Ontario courts recommend that joint submissions be given serious consideration and should only be rejected if it would compromise the public interest or call the administration of justice into question.

22. In evaluating the joint submission, the Member's discipline-free record and willingness to accept the proposed penalty were taken into consideration. Given her active participation and cooperation throughout the hearings process, it is evident that the Member recognizes her mistakes and is prepared to address the shortcomings in her professional practice. While the Member failed to uphold her responsibilities as an RECE, it is not to say that she did it maliciously or with the intent of personal gain. Rather, the Committee understands the Member's conduct to be due to a lack of understanding of her responsibilities as an educator. The Committee finds that the proposed penalty, in its entirety, is an appropriate response to the Member's individual circumstances as well as the nature of the misconduct.
23. The reprimand provides the Committee with an opportunity to speak directly to the Member regarding the concerns it has about her conduct and allows the Committee to reinforce the messages it wishes to convey through the penalty. By impressing on the Member that conduct of this nature is neither acceptable to the College, nor to other members of the profession, it will discourage similar acts of misconduct on the part of the Member in the future.
24. By completing a course in "Ethics and Professional Standards," the Member will have an opportunity to address the shortcomings of her practice by actively engaging in professional development. This educational component is intended to rehabilitate the Member and equip her with the knowledge she requires to succeed as an RECE. As the Member has a limited

period of time to complete the course, the Committee communicates the importance of improving her professional practice immediately. Moreover, as the Member is financially responsible for the course, she will understand the monetary repercussions associated with committing professional misconduct, which will discourage her from engaging in similar conduct.

25. Publication of the Member's name also serves as a general deterrence and protects the public interest by expressing disapproval of the conduct, as well as informing the public and prospective employers of the Member's actions. As transparency is critical to self-regulation, the Committee appreciates the importance of demonstrating that it acts decisively and in the public interest when faced with acts of such misconduct.
26. In conclusion, the Committee is confident that the penalty serves to protect the public interest and the interest of the profession.

Date: December 19, 2014

Rosemary Fontaine

Rosemary Fontaine
Chair, Discipline Panel

Eugema Ings

Eugema Ings, RECE
Member, Discipline Panel

M. Champagne

Madeleine Champagne
Member, Discipline Panel