

**NOTICE OF PUBLICATION BAN**

In the matter of College of Early Childhood Educators and Jill Wendy Walsh 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:** Barney Savage, Chairperson  
Nicole Gouveia-Martinez, RECE  
CeCil Kim, RECE

**BETWEEN:** )  
)  
COLLEGE OF EARLY ) Vered Beylin  
CHILDHOOD EDUCATORS ) for the College of Early Childhood Educators  
)  
)  
- and - )  
)  
JILL WENDY WALSH ) Jack Brown,  
REGISTRATION # 17563 ) KNC Law  
) for Jill Wendy Walsh  
)  
)  
)  
) Elyse Sunshine,  
) Rosen Sunshine LLP  
) Independent Legal Counsel  
)  
) Heard: June 9, 2020

## **DECISION AND REASONS**

This matter was heard via videoconference by a panel of the Discipline Committee of the College of Early Childhood Educators (the "Panel") on June 9, 2020.

At the outset, the Panel ordered that no person shall make any audio or video recording of these proceedings by any means, with the exception of oral evidence that is recorded at the direction of the Panel.

## **PUBLICATION BAN**

The Panel ordered a publication ban following a motion by College Counsel, on consent of the Member, pursuant to section 35.1(3) of the *Early Childhood Educators Act, 2007* (the "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 were contained in the Notice of Hearing dated May 19, 2020, (Exhibit 1) which provided as follows:

1. At all material times, Jill Wendy Walsh (the "Member") was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator ("ECE") at the Champlain Discovery Public School, located in Pembroke, Ontario (the "School").
2. On or about January 12, 2017, at approximately 3:55 p.m., the Member and other staff were supervising a large group of children who were waiting at the School's gym for buses home. Among them was a 5 year old girl (the "Child").
3. The Child held her backpack in her arms and her older sister was going to carry it to the bus. The Member approached the Child and instructed her to put the backpack on her back. The Child refused to do so. While the Child resisted, the Member forcibly put the backpack on the Child's back. The Member then grabbed the Child by her arm and/or hand and pushed

and/or picked the Child up while holding her by the throat. The Member also yelled at the Child. The Child began to cry.

4. The Member then told the Child words to the effect of “what happens in school, stays in school”. The Child continued crying during the bus ride home.
5. As a result of the Member’s actions the Child sustained a scratch on her finger and a large red mark on her throat, which was still visible that evening. Additionally, the Child was afraid of the Member and reacted by pinching and scratching others around her when she saw the Member.
6. By engaging in the conduct set out in paragraphs 2 – 5 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act in that:
  - a) she verbally abused a child who was under her professional supervision, contrary Ontario Regulation 223/08 (the “Regulation”), subsection 2(3);
  - b) she physically abused a child who was under her professional supervision, contrary to the Regulation, subsection 2(3.1);
  - c) she psychologically or emotionally abused a child who was under her professional supervision, contrary to the Regulation, subsection 2(3.2);
  - d) she failed to maintain the standards of the profession, contrary to the Regulation, subsection 2(8), in that:
    - i. she failed to provide a nurturing learning environment where children thrive, contrary to Standard I.D of the Standards of Practice (the “Standards”);
    - ii. she failed to establish professional and caring relationships with children and/or to respond appropriately to the needs of children, contrary to Standard I.E of the Standards;
    - iii. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards;
    - iv. she failed to support children in developmentally sensitive ways and to provide caring, stimulating, and respectful opportunities for learning and care

that are welcoming to children and their families, contrary to Standard III.C.1 of the Standards;

- v. she failed 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 her professional supervision, contrary to Standard IV.A.2 of the Standards;
  - vi. she failed to make decisions, resolve challenges and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4 of the Standards;
  - vii. 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; and
  - viii. she physically, verbally, psychologically or emotionally abused a child under her professional supervision, contrary to Standard V.A.1 of the Standards;
- e) 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 the Regulation, subsection 2(10); and
- f) she conducted herself in a manner that is unbecoming of a member, contrary to the Regulation, subsection 2(22).

## **WITHDRAWAL OF ALLEGATIONS**

The College requested permission to withdraw allegations 6(a) relating to allegations of verbal abuse, and allegations relating to certain alleged breaches of standards 6(d)(i), 6(d)(ii), 6(d)(iv), and 6(d)(viii) as set out in the Notice of Hearing. The Member consented to the withdrawal of these allegations. On this basis, the Panel withdrew these allegations and the hearing proceeded on the basis of the remaining allegations in the Notice of Hearing.

## **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 (Exhibit 2), which provided as follows:

1. The Member has had a certificate of registration with the College for approximately 11 years. She is 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 ECE at the School.
3. On or about January 12, 2017, at approximately 3:55 p.m., the Member and other staff were supervising a large group of children who were waiting at the School's gym for buses home. Among them was the Child.
4. The Child held her backpack in her arms and her older sister was going to carry it to the bus. The Member approached the Child and instructed her to put the backpack on her back. The Child refused to do so. The Member then yelled at the Child and forcibly put the backpack on her. In the course of putting the backpack on the Child, the Member grabbed the Child by the arm and made contact with the Child's neck, causing redness to the Child's neck. The Child became upset and began to cry.
5. The Member held the Child by her hand and walked with her to the school bus. The Member asked the Child not to tell anyone about the incident. The Child continued crying on the bus ride home.

## **Additional Information**

6. The Child's mother met the Child and her older sister at the bus stop and they immediately advised her of the incident. The Child was crying as she spoke to her mother. The mother immediately called the School and reported the incident.
7. The School's principal reported the incident to Family and Children Services of Renfrew County ("FCS"). FCS investigated the incident and verified that the Member "used excessive and/or inappropriate force" with the Child, such that there was a risk of physical injury.

8. The School then conducted its own internal investigation. The School's investigation found that the Member made "inappropriate physical contact" with the Child, which violated the School's "hands off" expectations for behaviour management. As a result, a written discipline letter was issued to the Member.
9. The incident was observed by at least two other children who stood in close proximity to the Child. One of the children, a 9 year old boy, was "kind of freaked out" because of the incident and told his mother about it that day.

### **Admissions of Professional Misconduct**

10. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 5 above, and as defined in subsection 33(2) of the Act, in that
  - a) she physically abused a child who was under her professional supervision, contrary to the Regulation, subsection 2(3.1);
  - b) she psychologically or emotionally abused a child who was under her professional supervision, contrary to the Regulation, subsection 2(3.2);
  - c) she failed to maintain the standards of the profession, contrary to the Regulation, subsection 2(8), in that
    - i. she failed to maintain a safe and healthy learning environment, contrary to Standard 111.A.1 of the Standards;
    - ii. she failed 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 her professional supervision, contrary to Standard IV.A.2 of the Standards;
    - iii. she failed to make decisions, resolve challenges and/or provide behaviour guidance in the best interests of the children under her professional supervision, contrary to Standard IV.B.4 of the Standards; and
    - iv. 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.

- 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 the Regulation, subsection 2(10); and
- e) she conducted herself in a manner that is unbecoming of a member, contrary to the Regulation, subsection 2(22).

## **THE MEMBER'S PLEA**

The Member admitted to the allegations of professional misconduct as set out in the Agreed Statement of Facts.

The Panel received a written plea inquiry (Exhibit 3) which was signed by the Member. The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

## **SUBMISSIONS OF THE PARTIES ON LIABILITY**

### **Submissions by the College**

The College submitted that the facts agreed to by the parties supports the allegations of misconduct as set out in the Agreed Statement of Facts. The College submitted that the incident that occurred between the Member and the Child was a power struggle. It was ultimately completely unnecessary, and quickly escalated to the point where force was deployed by the Member in such a way that a mark was left on the Child's neck. By grabbing the Child and making contact with her neck, the College submitted that the member physically abused a child in her care.

The College further submitted that the Child experienced emotional harm as a result of the incident, as evidenced by her crying on the bus following the incident and crying when she saw her mother. Registered Early Childhood Educators are expected to be caring and fair and value the rights of children. This did not occur in this case. The Member did not demonstrate positive and age appropriate intervention strategies. The Member breached standards.

The Member also asked the Child not to tell anyone about the incident, in an attempt to cover up the incident and avoid accountability. The College submitted that this was disgraceful, dishonourable and unprofessional.

The incident also occurred in front of other children who were exposed to the misconduct. Another child who witnessed the incident was also impacted. This child described the event to their mother and reported being “freaked out”.

### **Submissions by the Member**

The Member’s Counsel submitted that the decision to forego the right to a full hearing constituted a considerable concession on the part of the Member. On behalf of the Member, he offered the Panel a full and unqualified apology for the incident, and indicated that the Member recognized where she did wrong. She is hoping to grow as an RECE from the experience. Member’s Counsel submitted that the Agreed Statement of Facts represented a full and fair account of the matters at issue and that this was jointly submitted by the parties. In such circumstances, he submitted that it would be reasonable to make the findings of misconduct on the basis of these facts.

### **FINDINGS AND REASONS FOR DECISION**

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member’s admission and found her guilty of professional misconduct. The Panel found that the evidence outlined in the Agreed Statement of Facts supported the remaining allegations in the Notice of Hearing, including that the Member was guilty of:

- Physically abusing a child under her professional supervision;
- Psychologically and/or emotionally abusing a child under her professional supervision;
- Failing to maintain the standards of the profession in areas such as maintaining a safe and health learning environment; knowing, understanding and abiding by the legislation, policies and procedures that are relevant to the care and learning of children under her professional supervision; and making decisions, resolving challenges and providing behavioural guidance to children under her professional supervision;



- Conducting herself in a manner that could reasonably be perceived as reflecting negatively on the profession;
- Acting in a manner that, having regard for the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional; and
- Conducting herself in a manner that is unbecoming of a member.

The Panel considered that the agreement on both facts and misconduct was reached by two experienced counsel. The Panel was advised to accept the conclusion reached by the parties unless such a finding would be so offensive that it would bring the administration of justice into disrepute. The Panel agreed with the Parties' conclusion that the use of harsh physical force on a young child was entirely inappropriate, particularly since the circumstances did not warrant an intervention with the Child. There was no reason whatsoever for the Member to lay hands on the Child. By physically touching the Child in this manner, the Member engaged in physical abuse and a breach of standards. Such conduct would also constitute conduct that would be considered to be disgraceful, dishonourable and unprofessional and conduct unbecoming a member of the profession. And to compound matters, following the incident, the Member urged the Child to keep the details of this incident private. This was extremely inappropriate, unprofessional and a breach of standards. This was also conduct unbecoming a member. The Panel also noted that the incident was reported to Family and Children Services of Renfrew County, who investigated the incident and verified that the Member used excessive force. The Panel found these details unsettling. The incident had an emotional impact on both the Child in question, as well as at least one other child.

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

Counsel for the College and Counsel for the Member made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"). The parties submitted 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

- a. 6 months; or
- b. the period of time required to comply with the terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,

whichever is greater.

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:

**Coursework**

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation (the "Director") if a grade is not assigned) and at her own expense, a course on positive intervention strategies with children (subject to the Director's pre-approval).
- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

**Mentorship**

- c. 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 Act ("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. 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.

- d. 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.
- e. 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.
- f. 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 Standards (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- g. After a minimum of 5 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(e),
  - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
  - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.
- i. The College may require proof of compliance with any of the terms 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 10 months of the date of the Order.

## **SUBMISSIONS OF THE COLLEGE ON PENALTY AND COSTS**

Counsel for the College submitted that cases such as this one are not unique. Although the details of each case are different, there have unfortunately been many cases involving inappropriate physical force deployed by an RECE. College Counsel submitted that in a penalty is intended achieve the following objectives:

- Sending a message to the profession and the public that such conduct is unacceptable and won't be tolerated;
- Sending a specific message to this Member that such conduct is unacceptable and deterring her from engaging in similar conduct in the future; and
- Rehabilitating the Member so she can return to the profession.

College Counsel advised that there were five aggravating factors in this case that the Panel should consider:

- There was no reason to make physical contact with the Child. This was an unnecessary power struggle that did not require a behavioural intervention.
- There was redness on the Child's neck due to the contact.
- The Child was emotionally impacted by the behaviour of the Member.
- The Member's conduct had an emotional impact on at least one other child as well.
- The Member instructed the Child not to report the incident, thereby placing her own interests above the interest of the Child.

Counsel submitted that the panel could consider the following mitigating factors:

- The Member pleaded guilty and agreed to a joint submission. This avoided the need for a lengthy contested hearing. The hearing had previously been anticipated to last eight days.
- The Member has an 11-year history of registration with the College without any prior record of misconduct.

Counsel advised the Panel that there were two additional considerations:

- The Child did not sustain any long-term injury as a result of the incident.
- This was an isolated incident, and not reflective of a pattern of behaviour on the part of the Member.

Counsel advised that in order to be satisfied that the Proposed Order was proportionate and in keeping with cases where similar conduct was at issue, the Panel could consider the following cases

- *College of Early Childhood Educators v Diba Hashimi, 2018 ONCECE 3*

- *College of Early Childhood Educators v Kelly Eusebio*, 2019 ONCECE 6
- *College of Early Childhood Educators v Victoria Alves*, 2019 ONCECE 5

With respect to the part of the Proposed Order that deal with costs, College Counsel submitted that this was an agreed upon amount and it was a symbolic amount that reflected a fraction of the costs actually incurred by the College. She also noted that the parties had agreed that 10 months would be a reasonable timeframe to pay the costs amount in light of the difficult circumstances associated with the current Covid-19 pandemic.

### **SUBMISSIONS OF THE MEMBER ON PENALTY AND COSTS**

Counsel for the Member indicated that the Member apologizes for her conduct that gave rise to this proceeding. He explained that although the Member had been registered with the College for 11 years, she had actually been in the profession prior to the College's existence and has been in the field for 27 years. She has worked with the Renfrew school board for 10 years and is considered to be a valuable member of the school team.

Counsel for the Member reminded the Panel of the need to balance sentencing principles relating to deterrence and to rehabilitation, and emphasized that the Proposed Order provides the opportunity to support the Member's return to the profession through coursework and mentorship.

With regard to the mitigating factors set out by College Counsel, Member's Counsel emphasized that the use of an agreed statement of facts prevented the need for an anticipated contested eight-day hearing. As a result, considerable cost and stress was averted. Counsel reported that the Member had not been the subject of discipline proceeding at the school board, and that her employment record is exemplary.

Member's Counsel also provided the Panel with three cases that he submitted contained similar facts and misconduct and that could guide the Panel in their consideration of the Proposed Order. These cases were:

- *College of Early Childhood Educators v Karla Coleman*, 2017 ONCECE 8
- *College of Early Childhood Educators v Kelly Marion*, 2018 ONCECE 4

- *College of Early Childhood Educators Debbra Ann Warden, 2015 ONCECE 5*

Finally, Counsel for the Member submitted the financial impact of a six-month suspension from the profession represents a significant financial hardship for the Member.

## **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 of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of
  - a. 6 months; or
  - b. the period of time required to comply with the terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,whichever is greater.

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:

### **Coursework**

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director if a grade is not assigned) and at her own expense, a course on positive intervention strategies with children (subject to the Director's pre-approval).

- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

### **Mentorship**

- c. 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 Act ("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. 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.

- d. 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.
- e. 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.
- f. 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 Standards (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- g. After a minimum of 5 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(e),
  - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
  - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.

- i. The College may require proof of compliance with any of the terms in this Order at any time.

## **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.

It is the Panel's conclusion that the Proposed Order would not offend these principles. Both the College and the Member had the benefit of experienced counsel, and the joint submission on penalty and cost was clearly reached as a result of considerable scrutiny and advocacy by both parties.

The Panel was satisfied that the proposed penalty achieved public protection by temporarily removing the Member from practice so that she could reflect on the consequences of her misconduct and refine her understanding of the College's expectations through completion of additional training.

The Panel was also satisfied that a reprimand and a 6-month suspension would discourage other registrants from engaging in similar conduct by demonstrating that this Committee takes this type of misconduct seriously and that these acts of professional misconduct will attract sanctions, up to and including temporary removal from practice.

Furthermore, the Panel was hopeful that a suspension, in combination with a reprimand and re-education, would achieve the goals of remediation and specific deterrence by affording the Member an opportunity to improve her understanding of the College's professionalism, ethics and standards and by discouraging similar acts of misconduct when she returns to practice.

While the precise details of each case are unique, there was a significant body of cases provided by the parties that dealt with the issues of inappropriate physical intervention with children. We considered these cases in assessing whether the penalty negotiated by the parties in this case is proportionate. We also considered the specific factors of this case. We found that the Proposed Order was within the range of penalties ordered by previous panels and was proportionate to the misconduct at issue.

### **ORDER AS TO COSTS**

Subsection 33(5)(4) of the Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that 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 to be paid within 10 months of the date of the order.

**I, Barney Savage, 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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Barney Savage, Chairperson

June 16, 2020

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Date