

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

Citation: College of Early Childhood Educators vs Gurpreet Lubana,
2018 ONCECE 6
Date: 2018-09-18

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 GURPREET LUBANA, a current
member of the College of Early Childhood Educators.

PANEL: Kristine Parsons, RECE, Chairperson
Larry O’Connor
Barbara Brown, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Jordan Stone,
CHILDHOOD EDUCATORS)	WeirFoulds LLP,
)	for the College of Early Childhood Educators
)	
- and -)	
)	
GURPREET LUBANA)	No Representation
REGISTRATION # 51308)	
)	
)	
)	
)	Renée Kopp
)	Jones Litigation Counsel LLP,
)	Independent Legal Counsel
)	
)	Heard: August 20, 2018

DECISION AND REASONS

This matter came on for a hearing before a panel of the Discipline Committee of the College of Early Childhood Educators (the “Panel”) on August 20, 2018.

THE ALLEGATIONS

The allegations against Gurpreet Lubana (the “Member”) as stated in the Notice of Hearing dated August 9, 2018 (Exhibit 1¹), are as follows:

- a. she failed to adequately supervise a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- b. she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. she failed to strive to establish and maintain ongoing and open communication regarding the development and learning of a child under her professional supervision, contrary to Standard I.C of the Standards of Practice;
 - ii. she failed to be attuned to the needs of children and families, contrary to Standard I.D of the Standards of Practice;
 - iii. she failed to ensure that the needs and best interests of children remained paramount, contrary to Standard I.F of the Standards of Practice;
 - iv. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College’s Standards of Practice;
 - v. she failed to know, understand, and abide by the legislation, policies, and procedures relevant to her professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College’s Standards of Practice;
 - vi. she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College’s Standards of Practice;
 - vii. she failed to work collaboratively with colleagues in her workplace in order to provide safe, secure, healthy, and inviting environments for

¹ At the opening of the hearing, counsel for the College asked the panel to amend the Notice of Hearing due to a typographical error. The amendment was agreed to by the member. The panel allowed the correction of the typographical error in the Notice of Hearing. The allegations as set out in the decision therefore reflect the wording of the Notice of Hearing, as amended.

children and families, contrary to Standard IV.C.1 of the College's Standards of Practice; and/or

- viii. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice;
- c. she acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10);
- d. she signed or issued, in her professional capacity, a document she knew or ought to have known contained false, improper, or misleading statements, contrary to Ontario Regulation 223/08, subsection 2(16);
- e. she falsified a record relating to her professional responsibilities, contrary to Ontario Regulation 223/08, subsection 2(17);
- f. she failed to keep records as required by her professional duties, contrary to Ontario Regulation 223/08, subsection 2(18); and
- g. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to all of the allegations in the Notice of Hearing as set out above. The Panel received a written plea inquiry (Exhibit 4) 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.

EVIDENCE

Counsel for the College of Early Childhood Educators (the "College") and the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which read as follows.

The Member

1. The **Member** initially registered with the College as a Registered Early Childhood Educator ("**RECE**") in September 2014 and is currently suspended for non-payment of fees.
2. At all material times, the Member was employed as an RECE at Gold Circle Early Childhood Day Care Centre in Etobicoke, Ontario (the "**Centre**").

3. On June 30, 2017, the Member was terminated from her position as an RECE at the Centre, in part because of the incidents described below.

Incident on June 23, 2017

4. On the morning of June 23, 2017, the Member and an early childhood education assistant (the “**ECA**”) were responsible for supervising a group of toddler-aged children at the Centre.
5. While the ECA was not in the room, a child under the Member’s supervision (the “**Child**”) fell off a table and/or was pushed to the ground, resulting in an injury to her right arm.
6. The Member acknowledges that she was not adequately supervising the Child, or the other children under her supervision, when this incident occurred and that she did not see the Child fall. If the Member were to testify, she would state that that she felt that she was unable to adequately supervise the children because she was the only staff in the room when the ECA left.
7. Following the incident described in paragraph 5, the Member did not:
 - a. fill out an accident report or a serious occurrence report;
 - b. notify her supervisor of the incident or injury; or
 - c. inform the Child’s parents of the incident or injury.
8. The ECA called the Child’s mother (“**A.**”) that morning to advise her that the Child was acting strangely and that they thought she was coming down with a cold. A. spoke to the Centre supervisor, the ECA, and the Member on separate occasions throughout the day. At approximately 2:30 pm, A. was asked to pick up the Child from the Centre, and was told that the Child was not feeling well.
9. When A. picked up the Child from the Centre, she noticed that the Child flinched and said “Ow” when A. moved her right arm. While feeding the Child dinner, A. noticed that the Child’s arm was swollen. A. took the Child to the emergency room later that evening, where an x-ray revealed she had a broken arm.

Incident on June 26, 2017

10. After the weekend, on June 26, 2017, A. attended the Centre to ask why she had not been informed that the Child was injured. A. was told, for the first time, that the Child had been pushed and/or had fallen on June 23, 2017.
11. Although the Member did not see the Child fall, she falsely reported to A. that she tried to grab the Child before the Child banged her head on the floor. The Member told A. that she checked the Child for a concussion and bodily injury. She also told A. that she was afraid to put the Child down for a nap fearing that the Child had a concussion (although the Child was allowed to nap on June 23, 2017).

12. Later the day, the Member filled out an accident report regarding the incident described in paragraph 5 (attached as Appendix "A"). This report was false, improper, and misleading, in that:
- a. it stated that the report was written on June 23, 2017;
 - b. it stated that A. had been contacted about the incident; and
 - c. it was not sufficiently detailed.

College Standards of Practice

13. The Member agrees that the following are standards of the profession, as set out in the College's Code of Ethics and Standards of Practice:
- a. Standard I.C requires RECEs to strive to establish and maintain ongoing and open communication regarding the development and learning of a child under their professional supervision.
 - b. Standard I.D requires RECEs to be attuned to the needs of children and families.
 - c. Standard I.F requires RECEs to ensure that the needs and best interests of children remain paramount.
 - d. Standard III.A1 requires RECEs to maintain a safe and healthy learning environment.
 - e. Standard IV.A.2 requires RECEs to know, understand, and abide by the legislation, policies, and procedures relevant to their professional practice and to the care and learning of children under their professional supervision.
 - f. Standard IV.B.3 requires RECEs to observe and monitor the learning environment and anticipate when support or intervention is required.
 - g. Standard IV.C.1 requires RECEs to work collaboratively with colleagues in their workplace in order to provide safe, secure, healthy, and inviting environments for children and families.
 - h. Standard IV.E.2 requires RECEs to not conduct themselves in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education.

Admissions of Professional Misconduct

14. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 4 to 12 above, and as defined in section 33(2) of the ECE Act, in that:

- a. she failed to adequately supervise a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- b. she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. she failed to strive to establish and maintain ongoing and open communication regarding the development and learning of a child under her professional supervision, contrary to Standard I.C of the Standards of Practice;
 - ii. she failed to be attuned to the needs of children and families, contrary to Standard I.D of the Standards of Practice;
 - iii. she failed to ensure that the needs and best interests of children remained paramount, contrary to Standard I.F of the Standards of Practice;
 - iv. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;
 - v. she failed to know, understand, and abide by the legislation, policies, and procedures relevant to her professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice;
 - vi. she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College's Standards of Practice;
 - vii. she failed to work collaboratively with colleagues in her 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; and/or
 - viii. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice;
- c. she acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10);
- d. she signed or issued, in her professional capacity, a document she knew or ought to have known contained false, improper, or misleading statements, contrary to Ontario Regulation 223/08, subsection 2(16);

- e. she falsified a record relating to her professional responsibilities, contrary to Ontario Regulation 223/08, subsection 2(17);
- f. she failed to keep records as required by her professional duties, contrary to Ontario Regulation 223/08, subsection 2(18); and
- g. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

DECISION ON THE ALLEGATIONS

Having regard to the facts set out in the Agreed Statement of Facts, the Committee accepted the Member's admission and found that she committed all of the acts of professional misconduct set out in the Notice of Hearing as outlined above.

REASONS FOR DECISION

The Panel considered the Agreed Statement of Facts and the Member's plea and found that the evidence supported findings of professional misconduct as alleged in the Notice of Hearing.

The allegations of professional misconduct in the Notice of Hearing are supported by paragraphs four through twelve in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice when she inadequately supervised a child, failed to notify the parents and child care administration of the child's injury, thus delaying necessary medical attention for the child, and falsified the incident report several days later.

The Member acknowledged that she behaved in a manner that is unbecoming a member and that her conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional. We agree.

Ms. Lubana's voluntary admission to each of the allegations of professional misconduct and the facts set out in the Agreed Statement of Facts led the panel to find the Member guilty of professional misconduct in respect of all of the allegations set out in the Notice of Hearing.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College submitted that the College still retained jurisdiction over the Member, even though, at the time of the hearing, she was suspended from the College for non-payment of fees. Counsel for the College and the Member made a joint submission as to an appropriate penalty (Exhibit 5). The joint submission as to penalty proposed that the Panel make an order as follows:

1. Requiring the Member to appear before the Panel to be reprimanded on the date of this Order.

2. Directing the Registrar to suspend the Member's certificate of registration for six (6) months. The suspension will take effect from the date the Member obtains a certificate of registration in good standing with the College, and will run without interruption as long as the Member remains in good standing with the College.
3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a. Prior to the Member commencing or resuming Employment as an **RECE** or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007*, the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
 - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
 - v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
 - vi. is pre-approved by the Director of Professional Regulation (the "Director"). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and resumé of the Mentor.

For clarity, the Member can commence or resume Employment after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment, the Member will ensure that the Director is notified of the name, address and telephone number of all employer(s).

- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission as to Penalty and Costs, and
 - iv. a copy of the Panel's Decision and Reasons.

- d. The Member will meet with the Mentor every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that he/she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of his/her employer(s)).

- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),

- iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
 - f. All documents delivered by the Member to the College or the Mentor will be delivered by registered mail or courier, and the Member will retain proof of delivery.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid in four equal installments of \$250, and based on the following schedule:
 - a. \$250 to be paid on the date of this Order;
 - b. \$250 to be paid on September 24, 2018;
 - c. \$250 to be paid on October 29, 2018; and
 - d. \$250 to be paid on November 26, 2018.

Each payment listed above shall be provided by means of a post-dated cheque, with all four cheques provided by the Member to the College on the date of this Order.

DECISION ON PENALTY AND COSTS

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

1. Requiring the Member to appear before the Panel to be reprimanded on the date of this Order.
2. Directing the Registrar to suspend the Member's certificate of registration for six (6) months. The suspension will take effect from the date the Member obtains a certificate of registration in good standing with the College, and will run without interruption as long as the Member remains in good standing with the College.
3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:

- a. Prior to the Member commencing or resuming Employment as an **RECE** or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007*, 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 resumé of the Mentor.

For clarity, the Member can commence or resume Employment after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment, the Member will ensure that the Director is notified of the name, address and telephone number of all employer(s).
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission as to Penalty and Costs, and

- iv. a copy of the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
- i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that he/she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of his/her employer(s)).
- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
- i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by registered mail or courier, and the Member will retain proof of delivery.

4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid in four equal installments of \$250, and based on the following schedule:
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 - b. \$250 to be paid on September 24, 2018;
 - c. \$250 to be paid on October 29, 2018; and
 - d. \$250 to be paid on November 26, 2018.

Each payment listed above shall be provided by means of a post-dated cheque, with all four cheques provided by the Member to the College on the date of this Order.

REASONS FOR PENALTY

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate registered early childhood educators. This is achieved through a penalty that addresses specific deterrence, general deterrence, rehabilitation and remediation. This penalty should be proportionate to the misconduct.

In considering the joint submission, the Panel was mindful that a jointly proposed penalty should be accepted unless its acceptance would bring the administration of justice into disrepute or it is otherwise not in the public interest.

The Panel is aware that no two cases are exactly alike. However, reviewing earlier cases can help determine the level of appropriate penalty. The Panel therefore considered the previous cases that were presented including *College of Early Childhood Educators v. Morrison* 2017 ONCECE 7, *College of Early Childhood Educators v. Stewart* 2016 ONCECE 1, *College of Early Childhood Educators v. Campbell* 2015 ONCECE 6. These cases established a range of penalties in circumstances where a member falsified reports and/or lied for their own protection including suspensions in the range of two (2) to six (6) months, as well as the imposition of terms, conditions and limitations on the members' certificates of registration.

The Member cooperated with the College and, by agreeing to the facts and proposed penalty, has accepted responsibility. Specifically, the suspension of the Member, along with the reprimand, will act as specific deterrents to the Member and general deterrents to other members of the profession, preventing them from engaging in such conduct. Ordering the Member to participate in a formal mentor relationship with a pre-approved mentor is intended to bring her practice in line with the acceptable College standards, encouraging her to remediate and apply her knowledge and professional skill set. By correcting the errors in her practice, the Member will avoid making similar errors in the future, thus reducing the likelihood of her committing similar acts of professional misconduct.

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

REASONS REGARDING ORDER AS TO COSTS

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

Costs are not meant to be punitive but are ordered to ensure that the member bears responsibility for paying for part of the actual costs incurred of her misconduct such that the membership does not have to bear the entire costs of one individual's misconduct.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that that this is an appropriate case for costs to be awarded and the amount proposed by the parties is reasonable.

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



Kristine Parsons, RECE, Chairperson

September 18, 2018

Date