

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

Citation: College of Early Childhood Educators vs Jenny Kar Yun Li,
2018 ONCECE 7
Date: 2018-10-12

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

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	for the College of Early Childhood Educators
)	
- and -)	
)	
JENNY KAR YUN LI)	No Representation
REGISTRATION # 27611)	
)	
)	
)	
)	Elyse Sunshine
)	Independent Legal Counsel
)	
)	
)	Heard: October 12, 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 October 12, 2018.

THE ALLEGATIONS

The allegations against Jenny Kar Yun Li (the "Member") as stated in the Notice of Hearing dated September 18, 2018 (Exhibit #1), are as follows:

1. At all material times, the Member was a member of the College of Early Childhood Educators working as an early childhood educator at The John Wanless Child Care Program (the "Centre"), a child care centre in Toronto, Ontario.
2. On or about March 11, 2016, the Member and another staff member, M.R., were responsible for supervising a group of children in the nursery room at the Centre.
3. At the time of the incident, parents were arriving at the Member's classroom to pick up their children from the Centre. During that time, one of those children (a boy named "D.") left the room unnoticed and made his way outside of the Centre unsupervised.
4. D. was observed standing in the Centre parking lot by his caregiver, J.Q., who returned D. to the classroom. Up until that point, the Member had not noticed that D. was missing.
5. Neither the Member nor her teaching partner, M.R., reported the above incident involving D. to their supervisor at the Centre. The Member called D's parents, but did not leave a message. The Member's supervisor at the Centre learned of the incident when she received a call from D's parents later that evening.
6. On or about March 14, 2016, the Member was suspended for three days without pay.
7. 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 *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
 - a) she failed to supervise adequately a person who was under her professional supervision, contrary to *Ontario Regulation 223/08*, subsection 2(2);

- b) she failed to maintain the standards of the profession contrary to *Ontario Regulation 223/08*, subsection 2(8) in that:
- c) she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;
- d) she failed to know, understand and abide by the legislation, policies and procedures that are relevant to the Member's 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;
- e) 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;
- f) she failed to work collaboratively with colleagues in the workplace in order to provide a safe, secure, healthy and inviting environment for children and families, contrary to Standard IV.C.1 of the College's Standards of Practice; and/or
- g) 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 College's Standards of Practice;
- h) 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);
- i) she contravened a law, which contravention caused a child or children under the Member's professional supervision to be put at or remain at risk, contrary to *Ontario Regulation 223/08*, subsection 2(21); and/or
- j) she conducted herself in a manner that is unbecoming a member, contrary to *Ontario Regulation 223/08*, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to the allegations in the Notice of Hearing as set out above. The Panel received a written plea inquiry (Exhibit #2) 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 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

8. The Member initially registered with the College of Early Childhood Educators (the "College") as a Registered Early Childhood Educator ("RECE") on June 17, 2010 and she remains in good standing with the College.
9. At all material times, the Member was working as an RECE at the Centre.
10. On or about March 14, 2016, the Member was suspended for three days as a result of the incident described below.

Incident on March 11, 2016

11. On or about March 11, 2016, the Member and another staff member, M., were responsible for supervising a group of children in the nursery room at the Centre.
12. Parents were arriving at the Member's classroom to pick-up their children from the Centre. During that time, an almost 3 year old child, D., left the room unnoticed and made his way outside of the Centre unsupervised.
13. D.'s caregiver found him alone beside a parked car in the Centre's parking lot approximately 15-20 meters from the Centre's exit. D. was in the middle of a laneway that ran in between the parking spaces. There were two parked cars on either side of the laneway, but there were no moving cars in the parking lot at the time.
14. The caregiver returned D. to the classroom. He had been gone for approximately five minutes. The Member did not notice that D. had left the room.
15. Neither the Member nor M. reported the incident to their supervisor at the Centre.
16. The Member called D.'s parents twice, but did not leave a message. The Member's supervisor at the Centre learned of the incident when she received a call from D.'s parents later that evening.

17. The Serious Occurrence Report prepared by the Centre stated that D.'s parents were extremely upset and had "lost trust" in the ability of the Centre to keep their child safe.
18. The Member fully cooperated with the investigation and expressed remorse.
19. If the Member were to testify, she would say that she reflected on her actions and learned from the incident. She would also advise that she worked with her colleagues at the Centre to change practices at pick-up time, to avoid similar situations in the future.

College Standards of Practice

20. 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 III.A.1 requires RECEs to maintain safe and healthy learning environments.
 - b. Standard IV.A.2 requires RECEs to know, understand and abide by the legislation, policies and procedures that are relevant to their professional practice and to the care and learning of children under their professional supervision.
 - c. Standard IV.B.3 requires RECEs to observe and monitor the learning environment and anticipate when support or intervention is required.
 - d. Standard IV.C.1 requires RECEs to work collaboratively with colleagues in their workplaces in order to provide safe, secure, healthy and inviting environments for children and families and to build effective relationships with colleagues and other professionals by using clear verbal and written communication.
 - e. Standard IV.E.2 requires RECEs to avoid conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood education.

Admissions of Professional Misconduct

21. The Member admits that, by engaging in the conduct set out in paragraphs 4-11 above, she engaged in professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
 - a. she failed to supervise adequately a person who was under her professional supervision, contrary to *Ontario Regulation 223/08*, subsection 2(2);
 - b. she failed to maintain the standards of the profession contrary to *Ontario Regulation 223/08*, subsection 2(8) in that:
 - i. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;

- ii. she failed to know, understand and abide by the legislation, policies and procedures that are relevant to the Member's 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;
 - iii. 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;
 - iv. she failed to work collaboratively with colleagues in the workplace in order to provide a safe, secure, healthy and inviting environment for children and families, contrary to Standard IV.C.1 of the College's Standards of Practice; and/or
 - v. 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 College's 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 contravened a law, which contravention caused a child or children under the Member's professional supervision to be put at or remain at risk, contrary to *Ontario Regulation 223/08*, subsection 2(21); and/or
 - e. 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 in the Notice of Hearing are supported by paragraphs 4 - 9 in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice when she neglected to properly watch over the children and allowed a child to wander off alone unsupervised for a period of time. In this regard, the Member failed to supervise a

person in her care. This was also a major breach of the standards of the profession, which exposed the child to grave physical risk. It is obvious from this behaviour that the Member did not make it her foremost responsibility to ensure the safety and well-being of a child who was under her professional supervision.

The Member failed to report this incident to the parents of the child, as well her supervisor. This demonstrates a level of disregard for the necessary communication and the seriousness of the incident.

The risk associated with a lost child could reasonably be perceived as reflecting negatively on the profession of Early Childhood Education.

All of these actions or inactions support that the Member has conducted herself in a manner that is regarded as disgraceful, dishonourable or unprofessional.

The Member failed to meet her obligations as an RECE by not complying with the *Early Childhood Educators Act, 2007*.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and the Member made a joint submission as to an appropriate penalty. The joint submission as to penalty proposed that the Panel make an order as follows:

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of four months. The suspension will take effect from the date of this Order, 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 a Registered Early Childhood Educator ("RECE") or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007* ("Employment"), the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - (i) is an RECE in good standing with the College,
 - (ii) is employed in a supervisory position,

- (iii) has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
- (iv) is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
- (v) is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
- (vi) is pre-approved by the Director of Professional Regulation of the College (the "Director"). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

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

- (b) Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employer(s).
- (c) The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - (i) the Panel's Order,
 - (ii) the Agreed Statement of Facts,
 - (iii) the Joint Submission on Penalty and Costs, and
 - (iv) a copy of the Panel's Decision and Reasons.
- (d) The Member will meet with the Mentor every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - (i) review of the College's Code of Ethics and Standards of Practice,
 - (ii) the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - (iii) the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,

- (iv) strategies for preventing the misconduct from recurring, and
 - (v) the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- (e) After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
- (i) the dates the Member attended the sessions with the Mentor,
 - (ii) that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - (iii) that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - (iv) the Mentor's assessment of the Member's insight into her behaviour.
- (f) 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.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid on the date of this Order.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon.

Counsel for the College further submitted that a joint submission should be accepted by the Panel unless it would bring the administration of justice into disrepute.

Counsel for the College submitted that the proposed penalty was appropriate and protected the public interest by serving the functions of general and specific deterrence. The proposed penalty was further proportionate to the misconduct and was consistent with penalties in analogous cases. In this regard, College Counsel provided two other cases from this College in support of the proposed penalty, which contained analogous conduct and findings of misconduct (*College of Early Childhood Educators v. Lealess* (2018) ONCECE 2 and the Order from *College of Early Childhood Educators v. Diua* (2018)).

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

1. The Child was found and returned to the Centre within 5 minutes;
2. The Member acknowledged her wrong doing and displayed remorse;
3. The Member fully cooperated with the investigations conducted by the Centre and the College;
4. The Member has used the experience as a learning opportunity for herself and the Centre;
5. The Member entered a guilty plea at the earliest opportunity; and
6. The Member has been registered with the College for eight (8) years with no prior misconduct history.

The prime aggravating factors in this case included the nature of the professional misconduct involved, specifically:

1. The Child's young age;
2. The Child was able to leave the classroom and the Centre;
3. The Child was found in the Centre's parking lot, which increased the possibility of harm to the Child;
4. The Member did not know the child had left the classroom and building;
5. The Member did not report the incident to her supervisor; and
6. The Member did not inform the Child's parents of the incident.

PENALTY DECISION

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

1. The Member is directed to appear before a 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 four months. The suspension will take effect from the date of this Order, and will run without interruption as long as the Member remains in good standing with the College.
3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - (a) Prior to the Member commencing or resuming employment as a Registered Early Childhood Educator ("RECE") or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007* ("Employment"), the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - (i) is an RECE in good standing with the College,

- (ii) is employed in a supervisory position,
- (iii) has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
- (iv) is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
- (v) is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
- (vi) is pre-approved by the Director of Professional Regulation of the College (the "Director"). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

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

- (b) Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employer(s).
- (c) The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - (i) the Panel's Order,
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 - (ii) the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,

- (iii) the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - (iv) strategies for preventing the misconduct from recurring, and
 - (v) the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- (e) After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
- (i) the dates the Member attended the sessions with the Mentor,
 - (ii) that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - (iii) that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - (iv) the Mentor's assessment of the Member's insight into her behaviour.
- (f) 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.

REASONS FOR PENALTY

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

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

The Panel is aware that no two cases are exactly alike. However, reviewing earlier cases can help determine the level of appropriate penalty. The Panel therefore considered the previous cases that were presented.

The Member cooperated with the College and, by agreeing to the facts and proposed penalty has accepted responsibility. Upon reflection of the incident, the Member implemented new procedures for the end of day pickup process.

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

An oral reprimand provides the Panel with the opportunity to remind the Member of her professional obligations as an early childhood educator.

The suspension of four months acts as a specific deterrent to the Member, and as a general deterrent to other members of the profession, from engaging in such conduct. This also enhances the public's confidence that the College will address such serious breaches of the Code of Ethics and Standards of Practice.

When the Member returns to practice, she will be rehabilitated through the specified mentorship relationship and continuous professional learning.

These terms, conditions and limitations will be listed on the Member's certificate of registration until they have been satisfied.

ORDER AS TO COSTS

Subsection 33(5)(4) of the *Early Childhood Educators Act, 2007* provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

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

The Panel orders that the Member pay the College its costs, fixed in the amount of \$1,000.00 to be paid on the date of this Order.

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

 RECE

Kristine Parsons, RECE Chairperson

October 12, 2018

Date