

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

Citation: College of Early Childhood Educators vs Peggy Lynn O'Meara,
2014 ONCECE 2
Date: 2014-12-05

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 Peggy Lynn O'Meara, a current
member of the College of Early Childhood Educators.

PANEL: Susan Quaiff, RECE, Chair
Bruce Minore
Lynn Haines, RECE

BETWEEN:)	
COLLEGE OF EARLY CHILDHOOD)	Jordan Glick,
EDUCATORS)	WeirFoulds LLP,
)	for the College of Early Childhood Educators
)	
- and -)	
)	
PEGGY LYNN O'MEARA)	Peggy Lynn O'Meara,
REGISTRATION # 10502)	on her own behalf
)	
)	
)	
)	
)	David Leonard,
)	McCarthy Tétrault LLP,
)	Independent Legal Counsel
)	
)	Heard: December 5, 2014

REASONS FOR DECISION, DECISION AND ORDER(S)

1. This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on December 5, 2014 at the College of Early Childhood Educators (the “College”) at Toronto.

2. Counsel for the College tendered a Hearings Brief (Exhibit 1) containing a Notice of Hearing, dated October 7, 2014 (Tab 1, Exhibit 1). The Notice of Hearing was served on Peggy O’Meara (the “Member”) specifying the charges and requesting the Member’s attendance before the Discipline Committee of the College of Early Childhood Educators (the “Committee”) on November 5, 2014 to set a date for a hearing. Counsel for the College submitted an Affidavit of Service sworn by Lisa Searles, Hearings Coordinator (Tab 1, Exhibit 1) and sworn November 12, 2014, detailing confirmation that the Notice of Hearing was served on the Member. Counsel for the College also tendered a Consent form signed by the Member on October 31, 2014 (Tab 1, Exhibit 1) indicating that the parties consented to hold the hearing on December 5, 2014.

3. The Member was in attendance at the hearing via teleconference and was not 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 Peggy O’Meara, 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 maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College’s Standards of Practice;
 - ii. 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

- iii. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession, contrary to Standard IV.E.2 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 (Tab 2, Exhibit 1). The affidavit states that Ms. O'Meara 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 November 11, 2014 (Tab 3, Exhibit 1). The Agreed Statement of Facts provides as follows:
- (a) Peggy O'Meara ("**Ms. O'Meara**" or the "**Member**") is, and was at all times relevant to these allegations contained in the Notice of Hearing, a registered member of the College of Early Childhood Educators (the "**College**").
 - (b) From on or about August 2013, the Member has been the operator of Limoges Child Care Inc. (the "Centre").
 - (c) From on or about August 2013, to on or about July 2014, the Member operated the Centre without a license from the Ministry of Education.
 - (d) Between March 28 and May 14, 2014, the Member operated the Centre over the five child limit permitted to unlicensed centres under the *Day Nurseries Act*.
 - (e) On or about March 28, 2014, Raquel Des Roches, Program Advisor with the Ministry of Education, inspected the Centre. During the inspection, the Member was found to have eight children under the age of ten, who were not of common parentage, contrary to the child limit permitted to unlicensed centres under the

Day Nurseries Act. During the site inspection, the Member indicated to Ms. Des Roches that she was providing care to 14 children that were not present during the time of the visit.

- (f) During the site inspection on or about March 28, 2014, the Member's records indicated the following:
 - i. On or about March 24, 2014, the Member was providing care to 17 children at the Centre, who were under the age of ten and not of common parentage;
 - ii. On or about March 25, 2014, the Member was providing care to 19 children at the Centre, who were under the age of ten and not of common parentage, contrary to the *Day Nurseries Act*;
 - iii. On or about March 26, 2014, the Member was providing care to 19 children at the Centre, who were under the age of ten and not of common parentage, contrary to the *Day Nurseries Act*, and,
 - iv. On or about March 27, 2014, the Member was providing care to 18 children at the Centre, who were under the age of ten and not of common parentage, contrary to the *Day Nurseries Act*.

- (g) On or about March 30, 2014, the Member sent an e-mail to Ms. Des Roches indicating that:
 - i. She had terminated the employment of some staff and reduced the number of children in the Centre to five; and,
 - ii. She had arranged for her neighbour to care for five children and that another five children would be cared for at the Member's house.

- (h) From on or about April 1, 2014, to on or about May 14, 2014, the Member provided child care in her home without a license from the Ministry of Education.

- (i) On or about April 1, 2014, Renée Piché, Manager, Licensing and Compliance with the Ministry of Education, issued the Member a letter concerning the site inspection conducted by Ms. Des Roches on March 28, 2014. In the letter, Ms. Piché informed the Member that:
 - i. She is required to reduce the number of children in her care who are not of common parentage and under ten years old to no more than five children; and,
 - ii. She is to remove a statement on the Centre's website that indicated

the Centre was licensed under the *Day Nurseries Act*, as no license had been issued for that location.

- (j) On or about April 10, 2014, at or around 3:50 p.m., Ms. Des Roches returned to the Centre to conduct an inspection. At the time of the inspection, Ms. DesRoches observed that there were three children under the age of ten and one child older than ten in the Member's care. In checking with the Centre's attendance records, Ms. Des Roches observed the following:
 - i. On or about April 7, 2014, the Member was providing care to 6 children at the Centre who were under the age of ten and not of common parentage;
 - ii. On or about April 8, 2014, the Member was providing care to 7 children at the Centre, who were under the age of ten and not of common parentage; and,
 - iii. On or about April 9, 2014, the Member was providing care to 6 children at the Centre, who were under the age of ten and not of common parentage.
- (k) On or about April 17, 2014, Ms. Piché issued the Member a letter concerning the site inspection conducted by Ms. Des Roches on April 10, 2014. In the letter, Ms. Piché informed the Member that she was required to reduce the number of children in her care who are not of common parentage and under ten years old to no more than five children.
- (l) On or about May 6, 2014, between 6:00 a.m. and 6:00 p.m., an investigator with Bélanger and Associates Investigations Inc. conducted surveillance on the Centre on behalf of the Ministry of Education. The investigator observed 15 children dropped off at the Centre between 6:23 a.m. and 8:04 a.m.
- (m) On or about May 14, 2014, at or around 3:00 p.m., Ms. Des Roches and Adrienne McCallan, Program Advisor with the Ministry of Education, conducted an inspection of the Member's home. During the inspection, Ms. Des Roches and Ms. McCallan observed that the Member was providing care to 14 children under the age of ten, who were not of common parentage.
- (n) During the site inspection at the Member's home, the Member informed Ms. Des Roches and Ms. McCallan that she had contravened the *Day Nurseries Act* by providing care at her home as follows:
 - i. On or about May 8, 2014, the Member was providing care to 11 children who were under the age of ten and not of common parentage;

- ii. On or about May 9, 2014, the Member was providing care to 8 children who were under the age of ten and not of common parentage;
 - iii. On or about May 12, 2013, the Member was providing care to 11 children who were under the age of ten and not of common parentage; and,
 - iv. On or about May 13, 2014, the Member was providing care to 11 children who were under the age of ten and not of common parentage.
- (o) On or about May 14, 2014, at or around 3:37 p.m., the Centre was inspected by Natalie Kent and Julie Brazeau, Program Advisors with the Ministry of Education, as a follow-up to the inspections on March 28 and April 10, 2014. Ms. Bowman was present at the Centre and was providing child to five children under the age of ten, who were not of common parentage, in compliance with the *Day Nurseries Act*.
- (p) On or about May 14, 2014, the Member sent an e-mail to the parents of children in her home care, informing them that she will no longer be able to provide child care from her home.
- (q) On or about May 26, 2014, Ms. Piché issued the Member a letter concerning the inspections conducted at the Centre and at her home on May 14, 2014. In the letter, Ms. Piché informed the Member of the following:
- i. She was required to reduce the number of children in her care who are not of common parentage and under ten years old to no more than five children; and,
 - ii. Due to her history of non-compliance with the *Day Nurseries Act*, the Ministry of Education would consider whether to refer this matter to prosecution.
- (r) The parties agree that these facts are substantially accurate.
- (s) Ms. O'Meara admits that by reason of the facts set out above, she engaged in professional misconduct, as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, 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 maintain a safe and healthy learning

environment, contrary to Standard III.A.1 of the College's Standards of Practice;

2. 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 Standards IV.A.2; and,
 3. She conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession, contrary to Standard IV.E.2 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 disgraceful, dishonourable or 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).
- (t) 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.
 - (u) The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
 - (v) The Member understands that the panel's decision and reasons may be published, including the facts contained herein along with her name.
 - (w) The Member understands that any agreement between her and the College does not bind the Discipline Committee.
 - (x) The Member acknowledges that she has had the opportunity to receive independent legal advice but has declined to do so.
 - (y) The Member and the College consent to the panel viewing the Notice of Hearing, this Agreed Statement of Facts and Joint Submission as to Penalty prior to the start of the hearing.
7. Following College counsel's submission of the Agreed Statement of Facts, the Member made an oral submission to present the mitigating facts of the situation. In her submission,

the Member accepted responsibility for her actions and apologized for how she dealt with her situation. The Member stated that she submitted a paper application to have the Centre licensed with the Ministry of Education in August 2013, anticipating the process to be completed within a few months. It was not until October 2013 that she was notified by the Ministry that the paper application she submitted would not be processed as the Ministry was switching to an electronic application process. As a result, the Member was required to resubmit her application electronically, which further delayed the process.

8. The Member stated that while she was waiting for the Centre to be granted a license, she operated the Centre as if it already had a license by adhering to the same rules and standards as licensed childcare centres. The Member indicated that she completed regular fire inspections, had the proper zoning, obtained insurance, maintained ratios, provided nutritional meals and created an environment equipped with developmentally and age appropriate materials. The Member stated that the Centre had not been issued a license due to an administrative backlog at the Ministry of Education, and not due to any defects of the facility itself.

DECISION

9. Having considered the Exhibits filed, and based on the Agreed Statement of Facts and guilty plea, and the submissions made by College counsel and the Member, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Peggy O'Meara, the Member, committed acts of professional misconduct as alleged, more particularly, breaches of Ontario Regulation 223/08, section 2, subsection 8, 10, 21 and Standards III.A.1, IV.A.2 and IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

REASONS FOR DECISION

10. 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 Member's plea and the Agreed Statement of Facts.

11. The Member failed to comply with the *Day Nurseries Act*, and in so doing, jeopardized the health, safety and well-being of the children under her professional supervision, contrary to Standard III.A.1. By supervising more children than legally entitled to, the Member's vigilance could have been compromised, thus making the children more vulnerable to harm or injury. Furthermore, the Member demonstrated a blatant disregard for authority and violated Standard IV.A.2 when she continued to operate her Centre in violation of the *Day Nurseries Act* despite repeated warnings from the Ministry of Education.

12. This was not a single instance of the Member failing to abide by the legislation, but rather a series of deceitful behaviours intended to advance the Member's business venture. The Member knowingly provided false information to her community when she claimed that the Centre was licensed by the Ministry of Education. She also lied to Ministry officials when she indicated that she had reduced the number of children in her care, when she had not. The Member's financially motivated, self-serving interests were her primary objective and she allowed this to guide her conduct. Through her self-serving actions and by acting contrary to the legislation, the Member tarnished the image of the profession, contrary to Standard IV.E.2.

13. If the Member was unhappy with the delays caused by procedural changes to the Ministry's licencing process, she should have addressed them in the appropriate forum rather than using it as an excuse to ignore the law. The Member's actions were 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

14. College counsel submitted a Joint Submission as to Penalty signed by the Member on November 11, 2014 (Tab 4, Exhibit 1), which provides as follows:

- (a) Ms. Peggy O'Meara ("**Ms. O'Meara**" 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 to research and complete a written paper of at least 1,000 words on the topic of, and entitled, "10 ways of demonstrating professionalism as an ECE and as a leader in professional/sector practice." The written paper must be submitted to the Registrar within three (3) months from the date of the Committee's Order and must be completed to the satisfaction of the Registrar.
- (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.

15. 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 they are "contrary to the public interest" and would "bring the administration of justice into disrepute."

16. 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 members of the profession of the type and penalty that awaits them should they err in a similar fashion.

17. College counsel addressed the individual elements of the proposed penalty, stating that in its entirety, the penalty satisfies the conditions of specific and general deterrence. College counsel elaborated, stating that the reprimand conveys the College's disapproval of the Member's conduct, thus discouraging future acts of misconduct. The research and writing assignment serves to educate the Member about appropriate professional conduct and provides her with the knowledge she needs to avoid similar inappropriate behaviour in the future. Finally, publication of the information regarding the Member's conduct both protects the public and informs members of the profession of the potential consequences of erring in a similar fashion.

PENALTY DECISION

18. 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 to research and complete a written paper of at least 1,000 words on the topic of, and entitled, "10 ways of demonstrating professionalism as an ECE and as a leader in professional/sector practice." The written paper must be submitted to the Registrar within three months from the date of the Committee's Order and must be completed to the satisfaction of the Registrar.

- (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

19. 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.

20. The Committee deliberated as to whether it should accept the proposed penalty as it considers it to be too lenient, given the severity of the Member's conduct. If it were not for the mitigating facts submitted by the Member orally at the time of the hearing, the Committee would have imposed a more severe penalty. After careful consideration, the Committee has determined that the joint submission made by College counsel and the Member is within the range of penalty and is appropriate for the case at hand and satisfies the required conditions.

21. 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. Being reprimanded by her peers acts as a specific deterrence in that it discourages the Member from engaging in a similar act of misconduct. Since it is an early childhood educator who delivers the reprimand, the Member will realize the impact her actions have on the profession as a whole.

22. By researching and completing a written paper on the topic "10 ways of demonstrating professionalism as an ECE and as a leader in professional/sector practice," the Member will be given an opportunity to review her professional responsibilities and reflect on her conduct. Researching the information for the paper will serve as a learning exercise for the Member and will equip her with the knowledge required to improve her professional practice. She will also be committing on paper her intent to behave in a professional manner, abide by the standards set by the College and not contravene the law in the future.

23. The Committee's decision to publish the Member's name in full on the College's website and in summary in the College's newsletter *Connexions*, is to serve as a specific deterrence by letting the Member know that the seriousness of her conduct warrants informing the public of her misconduct. In doing so, the Member is made to realize that the Committee does not take acts of such conduct lightly and will hold members accountable for such actions.

24. Publication with name also serves as a general deterrence and protects the public interest by providing the membership and the public with the information needed to make reasonable and sound decisions. The Committee respects the importance of transparency and understands that the public's confidence in the College is dependent on its ability and willingness to police itself.

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

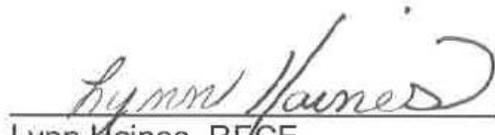
Date: December 5, 2014



Susan Quaiff, RECE
Chair, Discipline Panel



Bruce Minore
Member, Discipline Panel



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