

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

Citation: College of Early Childhood Educators vs Debbra Ann Warden,
2015 ONCECE 5
Date: 2015-03-19

IN THE MATTER OF the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sched. 8 (the
“ECE Act”) and the Regulation (Ontario Regulation 223/08) thereunder;

AND IN THE MATTER OF discipline proceedings against Debbra Anne Warden, a current
member of the College of Early Childhood Educators.

PANEL: Lynn Haines, RECE, Chair
Rosemary Fontaine
Eugema Ings, RECE

BETWEEN:)	
COLLEGE OF EARLY CHILDHOOD)	Jordan Glick,
EDUCATORS)	WeirFoulds LLP,
)	for the College of Early Childhood Educators
)	
- and -)	
)	
DEBBRA ANN WARDEN)	Debbra Ann Warden,
REGISTRATION # 36473)	on her own behalf
)	
)	
)	
)	Caroline Zayid,
)	McCarthy Tétrault LLP,
)	Independent Legal Counsel
)	
)	Heard: March 19, 2015

REASONS FOR DECISION, DECISION AND ORDER(S)

1. This matter came on for a hearing before a panel of the Discipline Committee (the “Committee”) on March 19, 2015 at the College of Early Childhood Educators (the “College”) at Toronto.

2. Counsel for the College submitted a Notice of Hearing dated January 12, 2015 and an Affidavit of Service dated January 23, 2015 (Exhibit 1). The Notice of Hearing was served on Debbra Anne Warden (the “Member”) specifying the charges and requesting the Member’s attendance before the Committee on February 6, 2015 to set a date for a hearing. The Affidavit of Service sworn by Lisa Searles, Hearings Coordinator, detailed confirmation that the Notice of Hearing was served on the Member.
3. The Member was in attendance at the hearing, acting on her own behalf.

THE ALLEGATIONS

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

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

- (a) She physically, psychologically or emotionally abused a child under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3).
- (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 provide a nurturing learning environment where children thrive, contrary to Standard I.D;
 - ii. She failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1; 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.
- (c) 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).
- (d) She conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

5. College counsel submitted an affidavit signed on March 4, 2015 by S.E. Corke, Registrar and Chief Executive Officer of the College (Exhibit 2). The affidavit states that Ms. Warden 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.

MEMBER’S PLEA

6. The Member admitted to the allegations against her, as stated in the Notice of Hearing, following a plea inquiry conducted by the Committee. The Committee was satisfied that the Member’s admission was voluntary, informed and unequivocal.

AGREED STATEMENT OF FACTS

7. Counsel for the College advised the Committee that an agreement had been reached on the facts and submitted into evidence an Agreed Statement of Facts, signed February 27, 2015 (Exhibit 3). The Agreed Statement of Facts provides as follows:
 - (a) Debbra Warden (“Ms. Warden” or the “Member”) is, and was at all times relevant to the Allegations in the Notice of Hearing, a registered member of the College of Early Childhood Educators (the “College”).
 - (b) From November 2011 until August 2014, the Member was employed as an Early Childhood Educator at Heart of the Family Child Care Centre (the “Centre”).
 - (c) On August 1, 2014, workers from Rangard Security were at the Centre installing security cameras. At or around 1:00 p.m. that afternoon, a camera installer witnessed the Member engaging in aggressive behaviour towards children aged 18-24 months. The camera installer observed, and a camera recorded the Member:
 - i. Forcing a 24-month-old child down into a sitting position on the floor on two occasions, causing the child to cry;

- ii. Lifting a 24-month-old child by one arm then dropping the child on the floor from a height of approximately 18-24 inches, where the child landed on her back;
- iii. Pushing an 18-month-old child she was relocating, causing the child to stumble and fall, narrowly missing a fixed cupboard;
- iv. Pushing a 23-month-old child aside with her foot to clear a pathway; and,
- v. Handling a 22-month-old child in a rough manner.

The camera recording is attached to this Agreed Statement of Facts as Schedule "A."

- (d) On August 7, 2014, Ms. Gareau Hunt, RECE and Program Supervisor at the Centre, was informed of the Member's conduct on August 1, 2014, by a representative of Rangard Security. She subsequently reviewed the video footage with the Member. After reviewing the video footage, the Member confessed to her actions and attributed her conduct to frustration caused by inconsistent staffing in her classroom.
- (e) On August 7, 2014, the Member was sent home for the remainder of the day with pay.
- (f) On August 8, 2014, the Member's employment with the Centre was terminated.
- (g) On October 24, 2014, Children's Aid Society ("CAS") completed its investigation into the Member's conduct and verified that the Member used excessive force on the young children she was caring for. The verification letter sent by CAS is attached to this Agreed Statement of Facts as Schedule "B."
- (h) Ms. Warden admits that by reason of the facts set out above, she engaged in professional misconduct, as defined in subsection 33(2) of the ECE Act, in that:
 - i. She physically, psychologically or emotionally abused a child under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3).
 - ii. She failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8) in that:
 - 1. She failed to provide a nurturing learning environment where children thrive, contrary to Standard I.D;

2. She failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1; 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.
- iii. She acted in a manner that, having regard to the circumstances, would reasonable be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10).
 - iv. She conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).
- (i) 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.
 - (j) The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
 - (k) The Member understands that the panel's decision and reasons may be published, including the facts contained herein along with her name.
 - (l) The Member understands that any agreement between her and the College does not bind the Discipline Committee.
 - (m) The Member acknowledges that she has had the opportunity to receive independent legal advice but has declined to do so.
 - (n) The Member and the College consent to the panel viewing the Notice of Hearing, this Agreed Statement of Facts and the Joint Submissions as to Penalty prior to the start of the hearing.

DECISION

8. Having considered the Exhibits filed, and based on the Agreed Statement of Facts and guilty plea, and the submissions made by College counsel, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Debbra Ann Warden, the Member, committed acts of professional misconduct as

alleged, more particularly breaches of Ontario Regulation 223/08, section 2, subsections 2(3), 2(8), 2(10), 2(22) and Standards I.D, III.A.1 and IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

REASONS FOR DECISION

9. The Committee finds the Member to be guilty of professional misconduct based on the admitted facts and allegations contained in the Agreed Statement of Facts and her oral admission of guilt. 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.
10. In review of the video footage attached to the Agreed Statement of Facts, it is clear that the Member's behaviour constituted professional misconduct. The Member intentionally and repeatedly used excessive physical force against the children in her care as a method of redirecting their behaviour. Her actions were injurious, highly inappropriate and not conducive to a safe and healthy learning environment, contrary to Standard III.A.1.
11. The Member not only physically abused the children, but by repeating the acts of physical abuse, she subjected them to psychological and emotional abuse. Her conduct was undoubtedly a violation of Ontario Regulation 223/08 subsection 2(3). Moreover, she failed to provide a nurturing environment and jeopardized the health and safety of the children at the Centre, in so doing, violated Standard I.D.
12. In a profession where one serves as a role model for children, the public and fellow RECEs, the Member's harmful and undignified behaviour provided a poor example for others to emulate. Her method of directing children was inappropriate and unacceptable for an early

childhood educator and she failed to portray the profession in a positive light, contrary to Standard IV.E.2.

13. The conduct exhibited by the Member is unacceptable for an early childhood educator. Her display of aggression and lack of concern for the well-being of the children at the Centre is not only unbecoming, but would reasonably be regarded by members as disgraceful, dishonourable and unprofessional, contrary to subsections 2(10) and 2(22) of Ontario Regulation 223/08.

JOINT SUBMISSION ON PENALTY

14. College counsel submitted a Joint Submission as to Penalty signed by the Member on February 27, 2015 (Exhibit 4), which provides as follows:
 - (a) Ms. Debbra Warden (“Ms. Warden” 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 suspend the Member’s certificate of registration for a period of three (3) months commencing on the date of the Committee’s Order.
 - (c) 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 that in the event the Member obtains employment engaging in activities that fall within the scope of practice of early childhood educators, the Member will:
 - i. Advise the Registrar, forthwith, of the name and address of her employer, the position in which she will be working and the start date; and,
 - ii. Complete a course in “Professional Supervision in Early Learning and Care” that is approved by the Registrar and to the satisfaction of the Registrar prior to beginning her employment.
 - (d) The results of the hearing shall be recorded on the Register.
 - (e) 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*.

15. College counsel submitted that all aspects of the proposed penalty are lawful as they are consistent with the Committee's legislative authority. Counsel for the College indicated that the Committee has, in the past, accepted joint submissions as to penalty, adding that while such submissions are not binding on the Committee, both the Ontario Court of Appeal and 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 Committee should strive to craft a penalty that meets the three overarching principles of discipline hearings – specific deterrence, general deterrence and rehabilitation. Specific deterrence is devised to ensure that the Member will not repeat an act of professional misconduct. General deterrence is intended to inform other members of the profession of the type of penalty that awaits them should they behave in a similar manner. Finally, rehabilitation seeks to address any underlying concerns that the College may have while protecting the public interest.
17. Counsel for the College submitted that the proposed penalty is in accordance with the three overarching principles of discipline hearings and appropriate, given the misconduct at hand. The reprimand serves as a specific deterrent by allowing the College an opportunity to dialogue with the Member and convey to her the disapproval of her conduct. By virtue of the reprimand being recorded on the register, it also satisfies a general deterrence function. The goal of a reprimand is to remind the Member of her professional obligations and the need to adhere to the standards expected of her by the College.
18. College counsel stated that a suspension is both appropriate and necessary given the fact that the misconduct at hand involves the abuse of children. The suspension not only acts as a specific deterrent, but is also a significant general deterrent as it informs other members of the profession that physical violence will not be tolerated by the College.

19. College counsel stated that publication is important from both a specific and general deterrence standpoint. As there is an element of public shaming associated with publication, the Member will be dissuaded from committing future acts of misconduct in order to avoid repeated public scrutiny of her actions. Moreover, publication allows the College to inform other members of the penalty for committing such acts of misconduct.
20. Counsel for the College submitted that the proposed penalty is appropriate, protects the public interests and is proportionate to the misconduct found.

PENALTY DECISION

21. After considering the joint submission made by College counsel and the Member, 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 suspend the Member's certificate of registration for a period of three months commencing on the date of the Committee's Order.
 - (c) 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 that in the event the Member obtains employment engaging in activities that fall within the scope of practice of early childhood educators, the Member shall:
 - i. Advise the Registrar, forthwith, of the name and address of her employer, the position in which she will be working and the start date; and,
 - ii. Complete a course in "Professional Supervision in Early Learning and Care" that is approved by the Registrar and to the satisfaction of the Registrar prior to beginning her employment.
 - (d) The results of the hearing shall be recorded on the public register.

- (e) 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*.

REASONS FOR PENALTY DECISION

22. 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. The Committee has ordered a penalty consistent with the joint submission, having determined that the proposed penalty is reasonable and serves to protect the public interest.
23. An oral reprimand provides the Committee with the opportunity to remind the Member of her professional obligations as an early childhood educator. By hearing the disapproval of her actions directly from her peers, the Member is able to witness the affect of her actions on the profession. Reprimands, particularly ones delivered orally, are generally unpleasant experiences for members on the receiving end. For this reason, the Committee feels that a reprimand will discourage the Member from recommitting an act of misconduct. Speaking directly to the Member also demonstrates that the College takes matters of professional misconduct seriously and will take an active role in addressing concerning behaviour. By recording the fact of the reprimand on the register, the public is assured that the Committee recognizes the seriousness of the Member's behaviour and responds to acts of professional misconduct fairly and transparently.
24. Suspension of the Member's certificate of registration is appropriate in this matter, given the fact that the Member inflicted physical, psychological and emotional abuse on the children in her care. As it is the duty of the College to regulate the profession in the public interest, the Committee believes that the public needs to be protected from the type of behaviour the


Member demonstrated. A suspension provides the Member with an opportunity to learn from her mistakes, reflect on her conduct and refocus on her professional responsibilities. It also holds the Member accountable for her actions and demonstrates to her the severity of her misconduct.


25. The terms, conditions and limitations placed on the Member's certificate of registration allow the College to monitor the Member's return to practice. Completing a course in "Professional Supervision in Early Learning," is intended to serve as a rehabilitative measure that will provide the Member with the tools and resources she needs to succeed as a professional early childhood educator. The course will encourage her to reflect on her practices and to refocus on her professional responsibilities. Since the course has to be completed prior to obtaining employment within the scope of the profession, the Member will have to demonstrate that she is willing to uphold the standards of the College before she can undertake the responsibilities of a practising RECE. This serves to protect the public interest by ensuring that only qualified individuals are permitted to practise the profession.
26. Ordering the Member to complete the courses at her own expense serves as a specific deterrence in two ways. Firstly, by correcting the errors in her practice, the Member will avoid making similar mistakes in the future, thus reducing the likelihood of recommitting similar acts of professional misconduct. Secondly, by making the Member financially responsible for the course, she will understand the monetary repercussions associated with committing professional misconduct, which will discourage her from engaging in similar conduct in the future.
27. Finally, publication on the public register, College website and in the newsletter, *Connexions*, promotes awareness of the high standards to which the College holds its

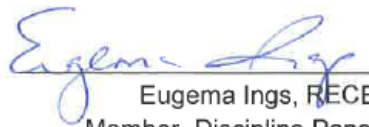
members and assures both the public and other members of the profession that the College will not tolerate this kind of conduct. Publication will ensure that future potential employers are made aware of the Member's misconduct and are able to reference the finding of the Committee prior to making hiring decisions. It will also communicate to the Member that the professional misconduct she committed is serious and the consequences for committing such acts are disadvantageous to her.

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

Date: March 19, 2015


Lynn Haines, RECE
Chair, Discipline Panel


Rosemary Fontaine
Member, Discipline Panel


Eugema Ings, RECE
Member, Discipline Panel