

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

Citation: College of Early Childhood Educators vs Laura Yates,
2014 ONCECE 1
Date: 2014-08-14

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 Laura Yates, a current member of
the College of Early Childhood Educators.

PANEL: Bruce Minore, Chair
Rhiannon Brown,
RECE Barbara Brown,
RECE

BETWEEN:)	
COLLEGE OF EARLY CHILDHOOD	)	M. Jordan
EDUCATORS	)	Glick,
	)	WeirFoulds
	)	LLP,
-and-	)	for the College of Early Childhood Educators
)	
LAURA YATES)	
REGISTRATION# 25045)	
	)	M. Amanda Montague-Reinholdt,
	)	Raven Law
	)	for Laura Yates
)	
)	
	)	Erica Baron,
	)	McCarthy Tetrault LLP,
	)	Independent Legal Counsel

Heard: August 14, 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 August 14, 2014 at the College of Early Childhood Educators (the "College") at Toronto .

2. Counsel for the College submitted a Notice of Hearing dated May 15, 2014 and Affidavit of Service dated June 2, 2014 (Exhibit 1). The Notice of Hearing was served on Laura Yates (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 June 5, 2014 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 via video-conference, and was 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 Laura Yates (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 work collaboratively with colleagues in the workplace in order to provide safe, secure, healthy and inviting environments for children and families, failed to support, encourage and work collaboratively with co- workers, failed to enhance the culture of the workplace and failed to build effective relationships with colleagues and other professionals by using clear verbal and written communication and positive interpersonal skills, contrary to Standard IV.C.1 of the College's

Standards of Practice;

- iii. she failed to build a climate of trust, honesty and respect in the workplace, failed to respect the privacy of colleagues, failed to handle information with an appropriate level of confidentiality and failed to support experienced colleagues and those who are new to the profession, contrary to Standard IV.C.2 of the College's Standards of Practice;
 - iv. she failed to recognize that she is a role model for children, families, members of their profession, supervisees and other colleagues and thereby conducted herself in a manner that reasonably could be perceived as reflecting negatively on the profession, contrary to Standard IV.E.2 of the College's Standards of Practice; and,
 - v. she failed to recognize and avoid a conflict of interest with children, families, colleagues and supervisees that could impair her professional judgment or increase the risk of harm to children under her professional supervision, contrary to Standard V.C.2.
- (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).

5. Allegation a(i) in the Notice of Hearing was withdrawn by Counsel for the College, therefore it was not pursued through the hearing. Counsel for the College submitted an affidavit signed on July 23, 2014 by S.E. Corke, Registrar and Chief Executive Officer of the College (Exhibit 2). The affidavit states that Ms. Yates 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 submitted into evidence an Agreed Statement of Facts, signed June 30, 2014 (Exhibit 3). The Agreed Statement of Facts provides as follows:
- (a) Laura Yates ("**Ms. Yates**" or the "**Member**") 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 October 8, 2012 until on or about November 12, 2013, the Member was employed as a Registered Early Childhood Educator at Greely First Steps Daycare (the "**Centre**").
- (c) On or about July 1, 2013, the Member was promoted to the position of Assistant Director of the Centre. On October 1, 2013, when the Director of the Centre took a leave of absence, the Member was appointed Acting Director. On November 8, 2013, the member was informed that the Director would be returning from her leave of absence on November 25, 2013, and would recommence her position. The Member was advised that upon the return of the Director, the Member would resume her position as Assistant Director and RECE in the kindergarten program.
- (d) Between on or about November 8 and November 12, 2013, the Member contacted parents whose children attended at the Centre and made various disparaging comments regarding the past conduct of the Director to some of the parents. The Member additionally informed parents that she did not agree with how the Centre was run, that several employees would be quitting their jobs on November 12, 2013 and that the daycare may close due to a lack of staff.
- (e) The Member additionally approached several staff at the Centre about terminating their employment with the Centre on November 12, 2013 and threatened some of them with negative consequences should they not go along with the termination of their employment.
- (f) On November 11, 2013, the Member called in sick and obtained a doctor's note to support a medical leave of absence.
- (g) On November 12, 2013, the Member:
 - i. told some parents that she and other employees were resigning that day. The Member additionally informed the parents that she had called the Ministry of Education and that the Centre may close due to a lack of staff;
 - ii. met with a Ministry of Education official; and,
 - iii. resigned from the Centre, without notice, along with two other employees .
- (h) On November 13, 2013, the owner of the Centre submitted a serious occurrence report (SOR) to the Ministry of Education.
- (i) During a subsequent investigation, several employees of the Centre came forward to provide information regarding the Member as follows :
 - i. The Member talked with different parents to alert them of concerns regarding the Centre and the Director's purported conduct towards staff

and children. Those parents subsequently approached other employees at the Centre in an attempt to verify the information conveyed to them by the Member;

- ii. The Member encouraged staff to write down concerns regarding the Centre and its Director and to contact the Ministry of Education and the Children's Aid Society regarding those concerns;
 - iii. The Member threatened that staff could lose their RECE title and their job at the Centre if they did not write a letter or alert the Ministry of Education of concerns regarding the Director's conduct towards the children;
 - iv. The Member encouraged staff to quit their jobs at the Centre. In respect of one colleague, the Member threatened that she would not act as a reference for her in the future if she did not terminate her employment with the Centre;
 - v. . The Member's intention was to remove the Director from the Centre;
- and, vi. The Member indicated that if the Centre were to shut down, she may seek to reopen it or open another Centre.

(j) During the course of the investigation, several employees voiced that they were made to feel uncomfortable by the Member and were fearful of what the Member would do if they did not terminate their employment with the Centre. At least one employee filed a police report against the Member with police.

(k) Subsequent to the member's resignation from the Centre, several parents withdrew their children from the Centre.

(l) If this matter were to proceed to a hearing, Ms. Yates would testify that she raised concerns regarding the conduct of the Director with the owners of the Centre, the Ministry of Education and the College as early as October, 2013. She would additionally state that while she denies threatening her fellow employees with negative consequences, it is possible that the employees interpreted her comments as threatening.

(m) The parties agree that these facts are substantially accurate.

(n) Ms. Yates 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 work collaboratively with colleagues in the workplace in order to provide safe, secure, healthy and inviting environments for children and families, failed to support, encourage and work collaboratively with co-workers, failed to enhance the culture of the workplace and failed to build effective relationships with colleagues

and other professionals by using clear verbal and written communication and positive interpersonal skills, contrary to Standard IV.C.1 of the College's Standards of Practice;

- ii. she failed to build a climate of trust, honesty and respect in the workplace, failed to respect the privacy of colleagues, failed to handle information with an appropriate level of confidentiality and failed to support experienced colleagues and those who are new to the profession, contrary to Standard IV.C.2 of the College's Standards of Practice; and,
- iii. she failed to recognize that she is a role model for children, families, members of their profession, supervisees and other colleagues and thereby conducted herself in a manner that reasonably could be perceived as reflecting negatively on the profession, contrary to Standard IV.E.2 of the College's Standards of Practice.
- iv. she acted in a manner that, having regard to the circumstances, would reasonably be regarded by members as unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10).

GUILTY PLEA

- (o) Ms. Yates 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.
 - (p) Ms. Yates understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
 - (q) Ms. Yates understands that the panel's decision and reasons may be published, including the facts contained herein along with her name.
 - (r) Ms. Yates understands that any agreement between her and the College does not bind the Discipline Committee.
 - (s) Ms. Yates acknowledges that she has had the opportunity to receive independent legal advice and indeed did receive independent legal advice.
 - (t) Ms. Yates and the College consent to the panel viewing the Notice of Hearing, the Agreed Statement of Facts and the Joint Submission as to Penalty prior to the start of the hearing.
7. Counsel for the College also submitted a plea inquiry signed by the Member on June 30, 2014 (Exhibit 5) indicating the following:
- The Member understands the nature of the allegations made against her;

- The Member understands that by admitting to the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing;
 - The Member voluntarily decided to admit to the allegations against her;
 - The Member understands that depending on the order made by the Committee, the Committee's decision and a summary of its reasons could be published in the College's official publication, *Connexions*, including reference to her name; and
 - The Member understands that any agreement between counsel for the College and herself with respect to the order proposed does not bind the Committee.
8. By entering into the plea inquiry, the Member submitted a plea of no contest to the allegations of professional misconduct. During the hearing, the Member made an oral admission of guilt following an inquiry made by the Panel.

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 counsel for the Member, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Laura Yates, the Member, committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 223/08, section 2, subsections 2(8), 2(10) and Standards IV.C.1, IV.C.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 contained in the signed 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.

11. The Member abused her position of authority to manipulate her colleagues in order to achieve a self-serving objective. In an effort to remove the Director from the Centre, the Member deceived her colleagues by falsely informing them that their jobs and RECE titles would be in jeopardy if they did not report the conduct of the Centre's Director to the Ministry of Education. The Member did not consider the interests of her colleagues when she encouraged them to terminate their employment with the Centre. In spite of the pushback she received from her colleagues, she continued to threaten her colleagues with negative consequences should they not comply with her demands. The Member did not support her colleagues, but rather used intimidation to coerce them into compromising their values, creating a climate of distrust, dishonesty and disrespect, a direct violation of Standard IV. C. 2. In a profession where one's collaboration with their colleagues is integral to providing a safe, secure, healthy and inviting environment for children, the Member's failure to work collaboratively put children at risk and compromised their well-being. The Member failed to build effective relationships with her colleagues, thus failed to uphold Standard IV. C. 1.

12. Moreover, the Member spread gossip about the Director of the Centre and the way in which the Centre was managed, leading the parents to question whether their children would be safe at the Centre. The Member misled parents into believing that

Centre staff were going to walk-out and that the Ministry of Education was going to close the Centre due to a lack of staff. It appears that the member's intention was to continue to maintain control of the Centre and this took precedence over her responsibilities towards the parents and children as an early childhood educator. This self-centred and malicious behaviour contravenes Standard IV. E. 2 by reflecting negatively on the profession.

13. This was not an isolated incident, but rather an orchestrated series of events intended to advance the Member's personal agenda. If the Member did have concerns about the Centre's Director or the way in which the Centre was managed, the Member could have sought other avenues to address them. The Committee is of the view that the Member's actions were not justified and she should have taken a more appropriate approach to resolve her concerns.
14. The Member's actions fail to meet the standards of the profession and are dishonourable and unprofessional for a member of the College and as such, are direct violations of subsections 2(8) and 2(10) of the Professional Misconduct Regulation.

JOINT SUBMISSION ON PENALTY

15. College counsel and Counsel for the Member submitted a Joint Submission as to Penalty signed by the Member on August 12, 2014 (Exhibit 4), which provides as follows:

- (a) Ms. Laura Yates ("**Ms. Yates**" 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, commencing on August 25, 2014, to be

recorded on the Register, prohibiting the Member from practising as an Early Childhood Educator until she completes, at her own expense and to the satisfaction of the Registrar, a course of study in "Ethics and Professional Standards," as prescribed by and acceptable to the College, and she receives approval from the Registrar to resume practice.

- (c) The results of the hearing shall be recorded on the Register.
- (d) The Discipline Committee's finding and Order shall be published in full on the College's website and in summary in the College's newsletter, *Connexions*.

Ms. Yates and the College will make submissions to be considered by the Discipline Committee regarding whether the publication of the findings and Order of the Discipline Committee on the College's website and in *Connexions* should include reference to Ms. Yates' name.

- (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.

16. 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 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."

17. 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 of penalty that awaits them should they err in a similar fashion. College counsel noted that the Member agreed to be prohibited from practicing as an early childhood educator until she completes educational coursework. This would serve as a specific deterrence as the Member would have the opportunity to

reflect on her conduct and apply her learning to future employment environments.

18. Both College counsel and the Member's counsel made submissions for consideration by the Committee on the sole issue of whether to publish the Member's name on the College's website and in the College's newsletter, *Connexions*. College counsel submitted that the publication with the Member's name serves as both a specific and general deterrence and is necessary in order to protect the public interest and to maintain public confidence in the integrity of the College's discipline process. College counsel further submitted that the publication of its decisions with the Member's name reflects the important principles of access and transparency to College processes which helps build confidence in the College's ability and willingness to police itself and thereby serves to protect the public interest.

19. Counsel for the Member submitted that the Member's name should be withheld from the publication of the Committee's decision as the matter concerns misconduct that is less serious than past decisions where publication with name was ordered. The Member's counsel further submitted that the present case is similar to the single past decision in which the Member's name was withheld from publication. The Member's counsel indicated that there was a parallel in the type of misconduct involved in both the present matter and past matter being referenced to, specifically that the misconduct constituted an error in judgement, rather than abusive, fraudulent or dangerous conduct, which is the case in all other disciplinary decisions of the College . The Member's counsel stated that the jointly proposed penalty, without the publication of the member's name, will still fulfill the objectives of specific and general deterrence, as well as promotion of the public interest.

PENALTY DECISION

20. 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 impose a term, condition and limitation on the Member's Certificate of Registration, commencing on August 25, 2014, to be recorded on the Register, prohibiting the Member from practicing as an Early Childhood Educator until she completes, at her own expense and to the satisfaction of the Registrar, a course of study in "Ethics and Professional Standards," as prescribed by and acceptable to the College, and receives approval from the Registrar to resume practice of the profession as an RECE.

- (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

21. 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. When there is a contested element in the joint submission as to penalty between College counsel and the Member, the Committee must adopt the penalty that best meets the requirements of specific deterrence, general

deterrence and protection of the public interest.

22. The reprimand provides the Committee with an opportunity to speak directly to the Member regarding the concerns it has about her behaviour and allows the Committee to reinforce the messages it wishes to convey through the penalty. By hearing the disapproval of her actions directly from her peers, the Member is able to witness the affect her actions have on the profession. The reprimand acts as a specific deterrence in that it discourages the Member from recommitting a similar act of misconduct by virtue of being an unpleasant experience for the Member that she would unlikely want to partake in again. Moreover, by recording the fact of the reprimand on the public 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 .

23. By completing a course in "Ethics and Professional Standards," the Member will have an opportunity to address the weaknesses in her professional skill set. This educational requirement is designed to rehabilitate the Member and provide her with the tools and resources she needs to succeed as an early childhood educator. Since the Member is not obligated to complete the course until she is ready to return to the profession, the education she receives will be current to the time she rejoins the practise . This strategy is beneficial as the information will be fresh in the Member's mind when she resumes her duties as an early childhood educator. Ordering the Member to complete a course 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 that she will recommit 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.

24. Although Counsel for the Member submitted that the Committee's decision should be published without reference to the Member's name, the Committee has not been provided with any compelling reason to withhold the Member's name from publication. Counsel for the Member suggested that the type of misconduct at hand was not severe enough to justify publishing the Member's name and indicated that the requirements of specific deterrence, general deterrence and promotion of the public interest would still be met without the publication. The Committee is of the view that the professional misconduct committed by the Member is indeed severe and warrants the publication with name. It is understood by the Committee that findings of professional misconduct may cause the Member to experience varying degrees of harm or distress. However, the Committee has the duty to protect the public interest, which will not be compromised in order to alleviate the discontent of a Member who purposefully disregarded the standards of the profession.

25. 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 demonstrating the consequences of the Member's actions to her. By publishing the Member's name, the Committee communicates to the Member that professional misconduct is serious and the consequences for committing such acts are disadvantageous, thereby deterring similar behaviour in the future.

26. Publication with name also serves as a general deterrence by demonstrating to other members of the profession that they are held fully accountable for their actions and that they will not be protected from peer and public scrutiny by having their names

removed from the published versions of 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.

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

Date: August 14, 2014



Bruce Minore
Chair, Discipline Panel



Rhiannon Brown, RECE
Member, Discipline Panel



Barbara Brown, RECE
Member, Discipline Panel