

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Ariana Alissa Anger this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of, or any information that could identify, any person who is under 18 years old and is a witness in the hearing, or the subject of evidence in the hearing or under subsection 35.1(3) of the *Early Childhood Educators Act, 2007*.

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

PANEL: Garry Bates, Chairperson
Yalin Gorica, RECE
Lois Mahon, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
ARIANA ALISSA ANGER)	Self-represented
REGISTRATION # 71551)	
)	
)	
)	
)	Lonny Rosen
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: May 6, 2021

DECISION AND REASONS

This matter was heard by a panel of the Discipline Committee (the “Panel”) of the College of Early Childhood Educators (the “College”) on May 6, 2021. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (the “Act”), *the Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the College’s Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee.

At the outset, the Panel noted that the hearing was being recorded in the Zoom platform at the direction of the Panel for the hearing record, and ordered that no person shall make any audio or video recording of these proceedings by any other means.

PUBLICATION BAN

The Panel ordered a publication ban following a motion by College Counsel, on consent of the Member, pursuant to section 35.1(3) of the *Early Childhood Educators Act, 2007*. The order bans the public disclosure, publication and broadcasting outside of the hearing room, any names or identifying information of any minor children who may be the subject of evidence in the hearing.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing dated March 18, 2021, (Exhibit 1) which provided as follows:

1. At all material times, Ariana Alissa Anger (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at First Foundations Children’s Academy, located in Toronto, Ontario (the “Centre”).
2. On or about the afternoon of October 11, 2019, the Member and J.G., an early childhood assistant, (collectively, the “Staff”) were supervising a group of 9 preschool aged children at the Centre’s fenced playground, including a 2½ year old child (the “Child”). At approximately 2:20 p.m. the Staff brought the children inside, without realizing that the Child was left behind on the playground. The Member did not conduct a head count and did not check the attendance sheet

to ensure that all the children were present. As a result, the Child remained in the playground alone and unsupervised.

3. The Staff did not realize that the Child was missing for approximately 35 minutes, until the Child's father arrived to pick them up at 2:55 p.m.
4. The Child was found on the playground 5 minutes later, at 3:00 p.m. The Child was crying and had dirt on their face when found.
5. By engaging in the conduct set out in paragraphs 2 – 4 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 (the "Act"), in that:
 - a) The Member failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b) The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the College's Standards of Practice;

- c) The Member 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); and/or
- d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

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 (Exhibit 2), which provided as follows:

The Member

- 1. The Member has had a certificate of registration with the College for approximately 2 years. She has resigned her certificate of registration with the College and does not have a prior discipline history with the College.
- 2. At all material times, the Member was employed as an RECE at the Centre.

The Incident

- 3. On the afternoon of October 11, 2019, the Member and J.G., an early childhood assistant, (collectively, the “Staff”) were supervising a group of 9 preschool aged children at one of the Centre’s fenced playgrounds (“Playground 1”), including the Child.
- 4. At approximately 2:20 p.m. the Staff walked the children from Playground 1 to the Centre’s second fenced playground, which is closer to the front entrance of the Centre (“Playground 2”). The Staff had to walk the children through Playground 2 to access the Centre’s front entrance. The Staff brought the children inside without realizing that the Child was left behind in Playground 2. As a result, the Child remained in Playground 2 alone and unsupervised.

5. Upon entering the Centre, the Staff did not conduct a headcount and did not check the attendance sheet to ensure that all the children were present.
6. The Staff did not realize that the Child was missing for approximately 35 minutes, until the Child's father arrived to pick them up at 2:55 p.m.
7. 5 minutes later, at 3:00 p.m., the Child was found on Playground 2. The Child was crying and had dirt on their face when found.
8. The Member breached the Centre's policies in the following ways:
 - a. The Member failed to count the children when they moved from Playground 2 to inside the Centre.
 - b. The Member did not receive a count from J.G. as the children moved from Playground 2 to inside the Centre;
 - c. The Member failed to conduct a headcount while she held the door open for the children as they walked inside the Centre; and
 - d. The Member failed to announce the final count of the children to J.G.

Additional Information

9. The Member was terminated from her position as an RECE at the Centre as a result of the incident described above.
10. The Member counted the children when the group moved from Playground 1 to Playground 2, but then failed to follow the Centre's policies and procedures as described in paragraph 8 above.

Admissions of Professional Misconduct

11. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 8 above, and as defined in subsection 33(2) of *the Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:

- a. The Member failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- b. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the College's Standards of Practice;
- c. The Member 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); and/or
- d. The Member acted 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 Agreed Statement of Facts.(Exhibit 2)

The Panel received a written plea inquiry (Exhibit 3) which was signed by the Member and also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

SUBMISSIONS OF THE PARTIES ON LIABILITY

College counsel submitted that the evidence for the allegations consisted of the Agreed Statement of Facts (Exhibit 2), and summarized these as follows:

On or about the afternoon of October 11, 2019, the Member and an early childhood assistant were supervising a group of nine preschool children at the Centre's fenced playground. A 2 ½ year old child (the Child) was part of this group.

At 2:30 pm, the children were brought to the Playground 2 and subsequently taken inside through the Centre's front entrance without realizing the Child was left in Playground 2. The Member did not conduct headcounts and did not check the attendance sheet to ensure that all children were present, resulting in the Child being left behind in the playground alone and unsupervised.

The Member did not realize that the Child was missing for approximately 35 minutes until the Child's father arrived to pick them up. Five minutes later the Child was found in the playground crying with dirt on their face.

College counsel submitted that the above conduct constituted professional misconduct, and that the Member, through an Agreed Statement of Facts, admitted that she engaged in and is guilty of professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act*, 2007, S.O. 2007, c. 7, Sch. 8.

College counsel noted the possible impact of this conduct on the Child who was found alone, unsupervised, crying and with dirt on their face, and the fact the Child was quite vulnerable being only 2 ½ years of age. There were several times that the Member was required by the Centre's procedures to perform the headcount of the children, but failed to do so. College Counsel noted

that, had the Member followed the required procedures, the Child would have been noted missing at any one of the check points.

College counsel noted that the Member failed to work collaboratively with the early childhood assistants and failed to act as a role model.

The Member made no submissions on liability but agreed by way of the Agreement Statement of Facts that she had committed the acts of professional misconduct as outlined in the Notice of Hearing.

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admission and found her guilty of professional misconduct as alleged in the Agreed Statement of Facts and in the Notice of Hearing.

The Panel finds that the Member committed the acts of professional misconduct as alleged. Contrary to Ontario Regulation 223/08 subsections 2(2) and 2(8), the Member failed to adequately supervise a child under her care and failed to maintain the standards of the profession, respectively.

The Member failed to meet the College's Standards of Practice in general, and more particularly Standard III.C.2 and Standard III.C.5 by her failure to provide appropriate supervision and to monitor the learning environment in order to provide safe and appropriate supervision for the children under her care. The duty to adequately and effectively supervise children in the care of a RECE is fundamental to the professional responsibility to ensure a safe and healthy environment for the children.

Additionally, the Member was in breach of the College's Standard of Practice IV.B.1 in that she was not aware of the current legislation, policies, and procedures relevant to her professional practice. Her failure to conduct headcounts and to check the attendance sheet at several points placed a vulnerable child potentially in a position of danger as they were left outside unsupervised for 40 minutes. The Member was unaware of the missing child until the parent arrived at the pickup time.

By her actions, the Member failed to model professional values, beliefs, and behaviours, contrary to Standard IV.C.4. of the College's Standards of Practice. The Member acted or failed to act in the 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). Her actions were clearly unbecoming of a member contrary to Ontario Regulation 223/08, subsection 2(22).

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and the Member made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"). The parties submitted that the Panel should 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 6 months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:

Mentorship

- 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*, the Member, at her own expense, will arrange a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,

- iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
- v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
- vi. is pre-approved by the Director of Professional Regulation (the “Director”). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, once the suspension in section 2 above ends, 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 employers.
- 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. the Panel’s Decision and Reasons.
- d. The Member will meet with the Mentor at least every 2 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 5 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.
- g. The College may require proof of compliance with any of the terms in this Order at any time.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, within 30 days of the date of this Order.

Submissions of the College on Penalty and Costs.

College counsel submitted that the penalty and costs order set out in the Joint Submission on Penalty and Costs met the principles that a penalty order was required to meet, in that:

- a. It would send a message broadly to members of the profession and the public that the conduct at issue is unacceptable and will not be tolerated by the College;
- b. It will deter other members from engaging in this conduct;
- c. It would send a similar message to the Member and would deter her from engaging in misconduct in future; and
- d. The penalty order, which contains an extensive program of mentorship, would help to rehabilitate and support the Member when she returns to the profession.

College counsel also submitted that the penalty must take into account the aggravating and mitigating factors in this case, and presented five aggravating factors and three mitigating factors for the Panel to consider.

Aggravating Factors:

1. The Child was vulnerable, being only 2 ½ year old.
2. The significant time (40 minutes) the Child was left unsupervised.
3. The Member did not realize the Child was missing until the father arrived.
4. The Member failed to take actions, follow procedures, perform headcounts and check attendance.
5. The Child was found crying and was therefore emotionally impacted by the Member's actions.

Mitigating Factors:

1. The Member took responsibility and acknowledged her wrongdoing, and she fully cooperated with the investigation.
2. The Member plead guilty to her misconduct and agreed to an agreed statement of facts and a joint submission on penalty and costs, which saved the College time and resources.
3. The Member has been an RECE for two years and has no prior history of misconduct.

College counsel added two additional points which were noted as the absence of aggravating factors: the Child was not injured or harmed; and this was an isolated incident.

College counsel provided the Panel with three cases to satisfy the Panel that the proposed Order was proportionate and consistent with the range of penalties ordered in other, similar cases: *College of Early Childhood Educators v. Sarah Louise Cameron*, 2019 ONCECE 7; *College of Early Childhood Educators v. Jenny Ng-Nakatani*, 2019 ONCECE 17; and *College of Early Childhood Educators v. Rebecca Ann Wardaugh*, 2019 ONCECE 19.

Submissions of the Member on Penalty and Costs

The Member agreed to the penalty set out in the joint submission as an appropriate order as to penalty and costs.

PENALTY DECISION

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

1. The Member is required 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 6 months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:

Mentorship

- 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*, the Member, at her own expense, will arrange a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,

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

For clarity, once the suspension in section 2 above ends, 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 employers.
- 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. the Panel’s Decision and Reasons.
- d. The Member will meet with the Mentor at least every 2 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 5 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.
- g. The College may require proof of compliance with any of the terms in this Order at any time.

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 appropriate level of penalty. The Panel therefore considered the previous cases that were presented by the College Counsel and found that the proposed order was consistent and proportional with other cases. The referenced cases all contained similar circumstances and periods of suspension. The *Wardaugh* case was an exception, in that the suspension ordered in that case was seven months, while the other cases the suspension ordered was six months in length. The Panel noted, however that the member in *Wardaugh* realized the child was missing but did not take any action, making their conduct more egregious and warranting a longer suspension.

A reprimand to the Member provides the Panel with the opportunity to express its disapproval of the Member's conduct and reinforce the messages it wishes to convey through the penalty. Moreover, by recording the reprimand on the public register, the public is assured that the Panel recognizes the seriousness of the Member's action and responds to acts of professional misconducts fairly and transparently.

Suspension of the Member's certificate of registration is appropriate in this case given the fact that the Member's failure to follow appropriate procedures, policies and supervision practices placed a very young and vulnerable child in a position of potential danger. Additionally, the Child was left alone and unsupervised for an extended period and was only discovered missing when the parent arrived at pickup time. The Panel finds this is totally unacceptable and most concerning.

A suspension holds the Member accountable for her actions and communicates to her the severity of her misconduct. While the suspension demonstrates the Panel's disapproval of the Member's misconduct, it is not intended to be solely punitive. Her suspension provides the Member with an opportunity to learn from her mistakes, reflect on her conduct and refocus on her professional responsibilities.

A mentorship program provides the Member with an opportunity to be directly involved with her personal rehabilitation. It provides her with the opportunity to learn how to better meet the

standards expected of an RECE while working directly with an appropriate role model. It also provides a level of supervision.

The Panel notes the increasing number of inadequate supervision cases coming before the Discipline Panels and anticipates that future actions by the College will be required to prevent this conduct.

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

ORDER AS TO COSTS

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

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees 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 \$1000 to be paid within 30 days of the Order.

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



Garry Bates, Chairperson

May 18, 2021

Date