

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Sarah McGivery Jenkins 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: Susan Quaiff , RECE, Chairperson
Garry Bates
Paul Jackson, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
SARAH MCGIVERY JENKINS)	Self-represented,
REGISTRATION # 60778)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: November 9, 2020

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 November 9, 2020. 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 ordered that no person shall make any audio or video recording of these proceedings by any means except as directed or explicitly permitted by the Panel.

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 Act. 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 September 25, 2020 (Exhibit 1) which provided as follows:

1. At all material times, Sarah McGivery Jenkins (the “Member”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“ECE”) at Today’s Child – Tomorrow’s Future Children’s Centre (the “Centre”) in Vaughan, Ontario.
2. On or about March 19, 2018 the Member forcefully grabbed a 7½ year old boy (“Child 1”), by the wrist area, digging her nails into his skin, and sat him on a chair. Child 1 was in pain and began to cry. The Member then told Child 1 “You aren’t going to tell mommy, right?” As a result of the Member’s actions, Child 1 sustained several marks on his wrist area.

3. The same day, the Member also grabbed a school aged girl (“Child 2”) by the wrist area, and then by both of her arms, causing Child 2 to be upset.

4. By engaging in the conduct set out in paragraphs 2 – 3 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act in that:
 - a) The Member physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
 - b) The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - c) 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 be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College’s Standards of Practice;
 - ii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 of the College’s Standards of Practice;
 - iii. The Member failed to work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College’s Standards of Practice;
 - iv. 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; and/or
 - v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or she 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.
 - d) 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

- e) 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 4 years. She is in good standing 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 Registered Early Childhood Educator ("RECE") at the Centre in Vaughan, Ontario.

Incidents

3. On March 19, 2018 the Member forcefully grabbed Child 1, by the wrist area, digging her nails into his skin, and sat him on a chair. Child 1 was scared, in pain, had several marks on his wrist area and began to cry.
4. The Member then told Child 1 "You are not going to tell mommy, are you?"
5. The same day the Member also grabbed Child 2 by the wrist area, and then by both of her arms, causing Child 2 to be upset.

Additional Information

6. Child 1 told his mother about the incident the same day, despite the Member's request not to do so. Child 1 stated that he did not want to return to the Centre. The mother was very upset about the incident and attended the Centre to report it the next day.

7. The Centre's Director reported the incident regarding Child 1 to the Children's Aid Society ("CAS"). CAS investigated the incident and verified that the Member used physical force causing physical harm against Child 1.
8. As a result of the incidents, the Member was terminated from her position as an RECE at the Centre.
9. Ten months prior to the incidents, in May 2017, the Member engaged in similar behavior involving a preschool aged boy causing a bruise to his arm. CAS determined that, although the Member's actions were excessive in nature, she did not intend to harm the child. The Member then received additional training in appropriate intervention strategies with children from her employer.
10. If the Member were to testify, she would advise the following:
 - a. She recognized that her handling of Child 1 was unacceptable.
 - b. She would never intentionally harm a child.
 - c. She learned from the experience and reviewed various training materials to improve her practice.

Admissions of Professional Misconduct

11. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 5 above, and as defined in subsection 33(2) of the Act in that:
 - a. The Member physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
 - b. The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - c. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - vi. The Member failed to be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College's Standards of Practice;

- vii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 of the College's Standards of Practice;
 - viii. The Member failed to work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College's Standards of Practice;
 - ix. 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; and/or
 - x. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or she 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.
- d. 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
- e. 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 Panel received a written plea inquiry (Exhibit 3) which was signed by the Member. The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

SUBMISSIONS OF THE PARTIES ON LIABILITY

The College submitted that the member was guilty of professional misconduct and physical, psychological and emotional abuse of children under her care. All of the allegations are supported and agreed to by both parties in the Agreed Statement of Facts. The College submitted that the facts support findings of misconduct. The Member grabbed children and in one incident, her nails went into the child's skin. Her conduct was physically abusive and showed disregard to the children's' well- being. The College stated that the facts demonstrates that Child 1 was scared, in pain and began to cry and this is evidence of the Member's disregard for the physical and emotional well-being of Child 1. The College submitted that RECEs are expected to be caring and the Member failed to engage in supportive and respectful interactions with children. By her conduct, she failed to provide a supportive environment. The College submitted that her conduct reflected negatively on her, was disgraceful, dishonorable and unprofessional and clearly unbecoming.

The Member made no submissions on liability.

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 the Notice of Hearing

The Panel found that the College met its onus and established that it was more likely than not that the Member engaged in the acts of misconduct alleged. By grabbing the children, the Member physically abused children under her professional supervision. The children cried and were upset which establishes that the member psychologically or emotionally abused children under her supervision. The Member also discouraged Child 1 from telling his mother about the incident. Use of inappropriate physical force is a breach of the standards of practice of the profession. RECEs are expected to know a range of strategies that support ongoing positive interactions with children and by her actions, the Member demonstrated that she did not know and did not use appropriate strategies. The interactions between the Member and the children were neither supportive, nor respectful. By interacting with the children in this manner, the Member failed to model professional values and behaviours with the children. All of her conduct is such that would clearly be

considered to be disgraceful, dishonourable or unprofessional. It is never acceptable to grab children in the circumstances established by the Agreed Statement of Facts. By grabbing the children and by discouraging Child 1 from telling his mother, the Member's conduct was unbecoming a member of the profession.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and Counsel for 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
 - a. 7 months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,

Whichever is greater.

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:

Coursework

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation (the "Director"))

if a grade is not assigned) and at her own expense, a course on positive intervention strategies (subject to the Director's pre-approval).

- b. The Member must provide the Director with proof of enrollment and successful completion of the course(s).

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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. In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

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

- d. 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.

- e. 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.

- f. 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)).

- g. After a minimum of 7 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(e),

- iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.
 - i. 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

Counsel for the College submitted that the Proposed Order was appropriate in the circumstances. The Proposed Order would send a message broadly to the community of RECEs and the public that the Member's conduct was unacceptable and won't be tolerated. It would discourage other RECEs from engaging in similar conduct and send a specific message to this Member. The Proposed Order would also assist in rehabilitating the Member and ensure she fully learned from her wrongdoing. The Proposed Order was also consistent with the range of penalties imposed in similar cases, while taking into account the specific aggravating and mitigating factors of this case.

The College indicated that there were a number of aggravating factors in this case included that the Member left marks on the wrists of a child as result of digging her nails into him (although neither child was physically injured in the long term). There were two children who were emotionally impacted by the Member's conduct. The College also pointed out that the two incidents occurred independently, despite occurring on the same day, which may be indicative of a pattern of behaviour. The College submitted that another aggravating factor was the fact that the Member had undergone some training in relation to a different incident and as a result, she should have been more aware of her conduct. Finally, the College also submitted that the Panel should consider as an aggravating factor, the fact that the Member attempted to discourage Child 1 from reporting the incident, thereby placing her own interests before the child's well-being.

The College also suggested that the Panel could consider as mitigating facts the fact that the Member entered a guilty plea to the misconduct and agreed to the proposed Order thereby saving the College the time and expense of a contested hearing. The College also noted that the Member had no prior discipline history. Further, the College submitted that an important mitigating factor was that the Member took steps to learn from her wrongdoing and improve her practice.

The College also provided the Panel with a number of cases to satisfy the Panel that the Proposed Order was proportionate and consistent with similar conduct, including:

- *College of Early Childhood Educators vs Jill Wendy Walsh*, 2020 ONCECE 11 (CanLII)
- *College of Early Childhood Educators vs Malgorzata (Margaret) Lulek*, 2020 ONCECE 3 (CanLII)
- *College of Early Childhood Educators vs Mandip Kaur*, 2020 ONCECE 16 (CanLII)

The College submitted that the Proposed Order included an amount for costs, agreed upon by the parties and this was a symbolic amount representing a fraction of the College's actual costs but important to demonstrate that the membership as a whole should not be required to pay for the full cost of a hearing through their dues for a member found guilty of professional misconduct.

Submissions of the Member on Penalty and Costs

The Member made no submissions on penalty and costs.

PENALTY DECISION

The Panel accepted the Proposed Order 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
 - a. 7 months; or

- b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,

Whichever is greater.

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:

Coursework

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director if a grade is not assigned) and at her own expense, a course on positive intervention strategies (subject to the Director's pre-approval).
- b. The Member must provide the Director with proof of enrollment and successful completion of the course(s).

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, 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. In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

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

- d. 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.
- e. 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,
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- f. 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)).
- g. After a minimum of 7 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(e),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.
- i. 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 level of appropriate penalty. The Panel therefore considered the previous cases that were presented by College counsel and felt that the Proposed Order was proportionate and consistent with other cases where there was similar conduct.

The Panel considered that the Member cooperated with the College and, by agreeing to the facts and proposed penalty, has accepted responsibility for her conduct.

The Panel found that the penalty ordered satisfies the principles of specific and general deterrence and public protection. The suspension of the Member, along with the reprimand, will act as specific deterrents to the Member, and general deterrents to other members of the profession, preventing them from engaging in such conduct.

The Panel found that a suspension is necessary in this case to address the use of force including inappropriate physical behaviour guidance where a member engaged in physical and emotional abuse.

The terms, conditions and limitations imposed as part of the penalty order, including a course in behaviour guidance and the mentoring sessions, will help to rehabilitate the Member and educate her regarding best practices for early learning. This will also help to protect the public.

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

ORDER AS TO COSTS

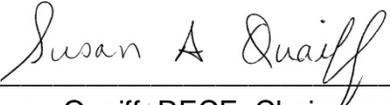
Subsection 33(5)(4) of the Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay

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 \$1,000 to be paid within 30 days of the date of this Order.

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



Susan Quaiff, RECE, Chairperson

November 19, 2020
Date