

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Mandip Kaur 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: Barney Savage , Chairperson
Geneviève Breton,
Gillian Jackson, RECE

BETWEEN:)
)
COLLEGE OF EARLY) Vered Beylin
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
)
- and -)
)
MANDIP KAUR) Self-represented
REGISTRATION # 65940)
)
)
)
)
)
)
) Elyse Sunshine,
) Rosen Sunshine LLP
) Independent Legal Counsel
)
)
) Heard: October 13, 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 October 13, 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.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing dated September 10, 2020, (Exhibit 1) which provided as follows:

1. At all material times, Mandip Kaur (the “Member”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“ECE”) at Jelly Bean Academy and Daycare (the “Centre”) in Vaughan, Ontario.
2. The Member was responsible for supervising pre-school aged children. Between on or about December 1, 2017 and February 14, 2018, the Member frequently yelled at the children, grabbed them and/or pulled them by the arms.
3. On one occasion between on or about December 1, 2017 and February 14, 2018, the Member placed L.P.N., a 3 year old boy (“Child 1”) in a chair as a form of punishment. Child 1 did not want to remain on the chair. To prevent him from getting up, the Member sat on Child 1 for approximately 30 seconds, while he was crying and telling her to get off of him.
4. On or about February 1, 2018, during nap time at approximately 12:20pm, the Member covered the head of a preschool aged girl (“Child 2”) with a blanket. The Member then leaned over Child 2 and restrained her to the cot for approximately 30 seconds, while Child 2 was crying and kicking her legs.

5. On or about February 2, 2018, during nap time at approximately 12:23pm, the Member approached Child 1 on his cot, grabbed him by the left arm and forcefully positioned him onto his stomach. The Member then grabbed Child 1's lower body around his waist area and forcefully attempted to position him onto his stomach.

6. By engaging in the conduct set out in paragraphs 2 – 5 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 verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
 - c) The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - d) 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.
- e) 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
- f) 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:

1. The Member has had a certificate of registration with the College for approximately 3 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 a Registered Early Childhood Educator (" RECE ") at the Centre in Vaughan, Ontario.

Incidents

3. The Member was responsible for supervising pre-school aged children. Between December 1, 2017 and February 14, 2018, the Member frequently yelled at the children, grabbed them and/or pulled them by the arms.
4. On one occasion between December 1, 2017 and February 14, 2018, the Member placed Child 1, a 3 year old boy, in a chair as a form of punishment. Child 1 did not want to remain on the chair. To prevent him from getting up, the Member sat on Child 1 for

approximately 30 seconds, putting her full weight on him, while he was crying and telling her to get off of him (the “First Incident”).

5. On February 1, 2018, during nap time at approximately 12:20pm, the Member covered the head of a preschool aged girl (“Child 2”) with a blanket. The Member then leaned over Child 2 and restrained her to the cot for approximately 30 seconds, while Child 2 was crying and kicking her legs (the “Second Incident”).
6. On February 2, 2018, during nap time at approximately 12:23pm, the Member approached Child 1 on his cot, grabbed him by the left arm and forcefully positioned him onto his stomach. The Member then grabbed Child 1’s lower body around his waist area and forcefully attempted to position him onto his stomach (the “Third Incident”).

Additional information

7. The Second and Third Incidents were captured by video.
8. The First, Second and Third Incidents were observed by a placement student whom the Member was responsible for supervising (the “Student”). The Student expressed concerns about the Member’s conduct to her placement supervisor. She described her experience at the Centre as “horrible” and decided not to continue her placement at the Centre.
9. The Children’s Aid Society (“CAS”) investigated the incidents and concluded that the Member’s lack of caregiving skills caused risk of harm to a child.
10. The Member was terminated from her position as an RECE at the Centre as a result of the incidents.
11. If the Member were to testify she would advise that she did not intend to harm the children by her conduct; and the College is not aware of any physical marks, injuries or long-lasting emotional impact to the children as result of the incidents.

Admissions of Professional Misconduct

12. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 6 above, and as defined in subsection 33(2) of the Act, in that:

- a) She physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
- b) She verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
- c) She psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
- d) She failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. She 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. She 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. She 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. She 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. She 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.

- e) She 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
- f) She 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.

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 allegations contained in the Notice of Hearing are supported by the evidence presented in the Agreed Statement of Facts. The College submitted that the evidence presented to the Panel demonstrated that the Member frequently grabbed children and engaged in specific violent conduct over the course of three and a half months. This conduct demonstrated a disregard for the well-being of children. These actions breached the standards of practice, and the Member disregarded the physical and emotional well-being of the children in her care. Her conduct was emotionally abusive, as demonstrated by the children crying. The Member failed to engage in supportive and respectful relationships, including with the Student under her supervision. Through these actions, the Member demonstrated a failure to abide by relevant policies, procedures and legislation. These actions constituted conduct that is disgraceful, dishonourable and unprofessional, and that would be clearly regarded as unbecoming a Member of the profession. The Member made no submissions.

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 accepted that the incidents occurred as described in the Agreed Statement of Facts, and that the Member's admission was informed and voluntary. The facts set out in the Agreed Statement of Facts provides evidence that the Member engaged in physical, verbal and psychological abuse of children and established the acts of misconduct alleged in the Notice of Hearing. The evidence showed that CAS conducted an investigation, and concluded that the Member's "caregiving skills caused risk of harm to a child." Further, we accept the contention that the allegations constitute professional misconduct and a violation of the College's Code of Ethics and Standards of Practice, which requires RECEs to provide "a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion." One key element of supporting this environment is working collaboratively with colleagues, including the Student. In this case, the Member's conduct had a significant negative impact on the Student, who was under her supervision.

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
 - a. 8 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, the following course (subject to the Director's pre-approval):
 - i. Building positive and responsive relationships with children; and
 - ii. Positive intervention strategies.
- 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, to be paid within 30 days of this Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted that this case is not unique, and that the College has been called upon to prosecute other cases of unprofessional misconduct related to physical abuse.

College Counsel submitted that the penalty in this case should serve three purposes:

1. The penalty must send a broad message to RECEs and the general public that this type of conduct is unacceptable. This is consistent with the mandate of the College to protect the public interest;
2. The penalty should deliver a specific message to this Member that such conduct is unacceptable; and
3. The penalty must offer a possibility to assist the Member to rehabilitate herself, learn from her errors, and return to practice remediated.

College Counsel drew the Panel's attention to five aggravating factors it should consider:

- The age of the children involved. As pre-schoolers, they were vulnerable and unable to report the incident with clarity and confidence.
- This was not an isolated event. There was a demonstrated pattern of conduct over a 3.5 month period.
- The Member's conduct consisted of brief incidents of forceful and violent outbursts.
- There was evidence that the children involved were emotionally impacted by the Member's conduct.
- The Member's conduct had a negative impact on an ECE student assigned to the Centre.

The Panel was also asked to consider two mitigating factors:

- The Member pleaded guilty. By agreeing to proceed by way of agreement, she saved the College considerable time and resources.
- The Member had no prior history of misconduct.

College Counsel also advised that there was no evidence that the children incurred any physical injury or long-term emotional impact relating to the incidents.

College Counsel asked the Panel to consider three previous cases from this College and suggested that these cases would provide the Panel with some guidance with respect to the range of penalties awarded in cases where similar conduct was at issue. Counsel also reminded the Panel that the penalty was developed jointly by the parties; as a result, the Panel may only reject the penalty submitted if the Panel considers the penalty so outrageous that the administration of justice would be brought into disrepute or would otherwise be contrary to the public interest.

Submissions of the Member on Penalty and Costs

The Member did not make any submissions regarding the Proposed Order. She informed the Panel that she has been working since the incidents in question, and that no additional complaints have been made against her.

PENALTY DECISION

The Panel accepted the Proposed Order and makes the following order as to penalty:

1. The Member is required to appear before the Panel 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. 8 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, the following course (subject to the Director's pre-approval):
 - i. Building positive and responsive relationships with children; and
 - ii. Positive intervention strategies.
- 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.

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 Proposed Order, which was a 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 was satisfied that the Proposed Order achieved public protection by temporarily removing the Registrant from practice so that she could reflect on the consequences of her misconduct and refine her understanding of the College's expectations through completion of additional training.

The Panel was also satisfied that a reprimand and the suspension would send a message to the public and discourage this Member and other members from engaging in such conduct by demonstrating that this Committee takes physical abuse of children very seriously and that these acts of professional misconduct will attract sanctions, up to and including removal from practice.

The Panel also felt that the reprimand, the coursework and mentorship would achieve the goals of remediation by providing the Member with an opportunity to improve her understanding of the College's expectations and standards and by discouraging similar acts of misconduct when she returns to practice.

The Panel accepted the Proposed Order as being proportionate to the Registrant's conduct, while also reflecting the mitigating circumstances in this case, including the absence of any prior discipline history and her guilty plea.

Finally, the Panel was satisfied that the Proposed Order was within the range of penalties that have previously been ordered by this Discipline Committee for similar conduct. It found no justifiable reason to depart from the parties' joint submission.

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, Barney Savage, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.



Barney Savage, Chairperson

October 20, 2020

Date