

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Junghwa You 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
Kathleen (Kath) Gradwell, RECE
Paul Jackson, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
JUNGHWA YOU)	Jack Brown,
REGISTRATION # 65302)	KNC Law
)	For the Member
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	
)	Heard: December 15, 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 December 15, 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 (Exhibit 1) which provided as follows:

1. At all material times, Junghwa You (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at Willowbrae Academy Bayview Village (the “Centre”) in Markham, Ontario.
2. Between approximately February 2019 and March 2019, the Member was responsible for supervising a group of toddlers at the Centre. On four separate occasions during nap time, as detailed below, the Member attempted to force the toddlers to lie down and/or go to sleep:

- a) On or about February 25, 2019, the Member picked up several of the toddlers and roughly placed them on their cots. For a period of approximately 15 minutes, the Member engaged in rough interactions with one of the boys who could not fall asleep. The boy tried to sit up in his cot multiple times. The Member, in response, kept roughly changing the boy's positioning on the cot and forcing him to lie down.
 - b) On or about March 3, 2019, the Member dragged and/or pulled several toddlers while the group was preparing for nap time. The Member also pulled two toddlers and tossed them onto their cots.
 - c) On or about March 5, 2019, the Member picked up Child 1 ("Child 1"), a 1½ year old girl, and tossed her onto her cot and covered her head with a blanket.
 - d) On or about March 6, 2019, for a period of approximately 8 minutes during the mid-day nap time, the Member engaged in rough and aggressive interactions with Child 1 and three other toddlers. The Member's actions included grabbing the children by their arms and/or upper body, pulling the children, tossing the children onto their cots, forcefully changing the children's positioning on the cots and repeatedly covering the children's heads with blankets.
3. By engaging in the conduct set out in paragraph 2 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 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 an RECE at the Centre in Markham, Ontario.

The Incidents

3. Between approximately February 2019 and March 2019, the Member was responsible for supervising a group of toddlers at the Centre. On four different days, three of them consecutive, during nap time, the Member attempted to force the toddlers to lie down and/or go to sleep by roughly interacting with them, grabbing and/or pulling them, tossing them and covering their heads with blankets, as described below:
 - a. On February 25, 2019 (the "First Day") the Member picked up several of the toddlers and roughly placed them on their cots. For a period of approximately 15 minutes, the Member engaged in rough interactions with one of the boys who could not fall asleep. The boy tried to sit up in his cot multiple times. The Member, in response, kept roughly changing the boy's positioning on the cot and forcing him to lie down.
 - b. On March 4, 2019 (the "Second Day"), the Member dragged and/or pulled several toddlers while the group was preparing for nap time. The Member also pulled two toddlers and tossed them onto their cots.
 - c. On March 5, 2019, (the "Third Day") the Member picked up Child 1, a 1½ year old girl and tossed her onto her cot and covered her head with a blanket.
 - d. On March 6, 2019 (the "Fourth Day") for a period of approximately 8 minutes during the mid-day nap time, the Member engaged in rough and aggressive interactions with Child 1 and three other toddlers, as described below:
 - i. The Member approached Child 1 and another child ("Child 2"), who were both jumping on a mat by the door. The Member walked over to the children, grabbed Child 2 by the back of his shirt and tossed him onto the floor, causing him to fall onto his back. The Member left Child 2 lying on the floor.
 - ii. The Member then grabbed Child 1 by placing both of her hands under Child 1's armpits. The Member carried Child 1 to a nearby cot in such a way that Child 1's feet were off the floor. The Member then forcefully threw Child 1

face-down onto the cot, over the blanket. The Member then removed the blanket from under Child 1 and tossed it over Child 1. The Member walked away from Child 1.

- iii. Child 1 got up from her cot and approached another staff member. The Member walked over to Child 1 and grabbed her from behind by her left arm. The Member held Child 1's arm so that Child 1's elbow was raised to her ear level and dragged Child 1 to her cot. The Member then tossed Child 1 face down onto her cot and threw a blanket over Child 1, completely covering her, including her head.
- iv. The Member then forcefully removed the blanket off of Child 1. The Member forcefully picked Child 1 up and tossed her onto the cot, so Child 1's head was placed where her feet were. The Member again threw the blanket over Child 1, completely covering her.
- v. The Member forcefully repositioned a female toddler ("Child 3") on the cot. Approximately 5 minutes later Child 3 sat up on her cot, with both her feet off the cot. The Member forcefully picked up Child 3 underneath her armpits, lifted her in the air, and forcefully placed her back on the cot so that she was lying face down. The Member then covered Child 3 completely with a blanket, including her head, and walked away.
- vi. A male toddler ("Child 4") began flailing his legs while lying face up on his cot with a blanket around his midsection. The Member forcefully removed the blanket off Child 4 and said something to him. Child 4 stopped moving and remained still on the cot. The Member grabbed Child 4 by his shirt with both of her hands and flipped him onto his stomach so that he was lying face down on the cot. The Member then placed a blanket over Child 4's entire body. Less than a minute later the Member again approached Child 4. She forcefully removed the blanket off of him, spoke to him for a few moments and then tossed the blanket back over Child 4.
- vii. Child 2 was sitting beside his cot and attempted to crawl back onto his cot when he saw the Member approach him. Before Child 2 was able to get back

onto his cot, the Member forcefully picked him up and aggressively placed him on the cot, face down. The Member then covered Child 2's head with two blankets and walked away from him.

Additional information

4. All the interactions between the Member and the children, as described in paragraph 3 above, were captured by video. The interactions between the Member and Child 1 on the Third and Fourth Days were also observed by Child 1's mother, who happened to be watching the live video stream from the Centre at the time.
5. Child 1 stopped attending the Centre as a result of the incident. According to her mother, Child 1 was fearful and emotionally impacted by the Member's conduct towards her.
6. The College is not aware of any physical marks or injuries to the children as result of the incidents.
7. The Children's Aid Society ("CAS") investigated the incidents and concluded that the Member demonstrated "a lack of caregiving skills" and put Child 1 "at risk of physical harm".
8. The Member was terminated from her position as an RECE at the Centre as a result of the incidents.
9. If the Member were to testify, she would advise that on the Fourth Day she was frustrated with the children's conduct and was trying to get them to sleep well within a limited period of time. She did not intend to harm them.

Admissions of Professional Misconduct

10. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraph 3 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:
 - 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 behaviors 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, dishonorable 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 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 Member did not attend the hearing but was represented by counsel. As such, the Panel did not conduct a verbal plea inquiry. The Member's Counsel submitted that the Member was entering a fully informed guilty plea and agreed to all of the allegations in the Agreed Statement of Facts. The Panel was satisfied that the Member's admission was voluntary, informed and unequivocal.

SUBMISSIONS OF THE PARTIES ON LIABILITY

College Counsel submitted that the Member was guilty of professional misconduct and physical and emotional abuse of the children under her care. All of the allegations of misconduct are supported by the facts set out in the Agreed Statement of Facts.

College Counsel submitted that the facts demonstrate that on multiple occasions, the Member engaged in rough and aggressive interactions with Child 1 and three other toddlers under her care. The Member dragged and pulled several toddlers, tossed children onto cots, lifted children by the arms and various parts of the body, and tossed a child on the floor. All of this was done with total disregard for their well-being. The Member also covered Child 1's head with a blanket. Child 1 was particularly affected and upset by these acts. Child 1's mother, having witnessed the interactions on tape, removed her child from the Member's care and the Centre. This conduct constitutes physical and emotional abuse.

The Member's conduct was further a breach of standards. RECEs are expected to be caring, empathetic and act with integrity. The Member demonstrated she did not know and did not use appropriate strategies contrary to Standard I.B.2 of the College's Standards of Practice.

By her actions, the Member failed to create a safe, healthy, and inviting environment for children in her care, contrary to Standard III.C.1. The Member failed to model professional values and behaviours with the children. College Counsel submitted that the Member's conduct reflected negatively on her and on the profession and that her conduct erodes public trust in the profession. Her conduct in these incidents is disgraceful, dishonorable and unprofessional and clearly unbecoming.

Counsel for the Member submitted that the facts in evidence were not in dispute. He further stated that the Agreed Statement of Facts represented the product of much discussion between counsel. He stated that the Member recognizes that she engaged in acts of misconduct and as a result, she decided to enter a guilty plea and give up her right to have the College prove the allegations against her. Member's Counsel submitted that it is a significant act for an accused person to plead guilty and the Member has done so in this case because she realized she was wrong.

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 Notice of Hearing and Agreed Statement of Facts.

The Panel holds that all of the allegations are supported by the facts contained in the Agreed Statement of Facts presented by the parties. The Panel finds that the College met its onus and established that it was more likely than not that the Member engaged in the acts of misconduct as alleged.

The Panel holds that between approximately February 2019 and March 2019, the Member was responsible for supervising a group of toddlers at the Centre. On four different days, three of them consecutive, during naptime, the Member attempted to force the toddlers to lie down and go to sleep by roughly interacting with them, grabbing and/or pulling them, tossing them and covering their heads with blankets as outlined in the Agreed Statement of Facts. The facts are not in dispute and we find that the facts, as presented, constitute the acts of misconduct alleged.

The Panel finds that the Member physically abused children under her care when she dragged and pulled several toddlers. Her abusive conduct included tossing children onto a cot, roughly lifting children, physically changing their position and forcing them to lie down and throwing a child onto the floor. All of these transgressions were captured on the Centre's video tape system.

The Panel finds that the Member further psychologically and emotionally abused children by covering their heads with blankets. Child 1 was particularly emotionally and psychologically impacted to the point where she did not return to the Centre.

The fact that there were several occurrences on different days indicates a pattern of behaviour on the part of the Member.

The Member demonstrated she did not know and did not use appropriate strategies with respect to facilitate rest time contrary to Standard I.B.2 of the College's Standards of Practice. While we acknowledge that it can be challenging for children to nap during nap time, using physical and emotional means when children will not stay on their cots and/or nap are never appropriate and never the solution.

By her actions, the Member failed to create a safe, healthy, and inviting environment for children in her care, contrary to Standard III.C.1. The Member created an atmosphere where the children felt fearful – to the point where one child did not return to the Centre. The Member failed to model professional values and behaviours with the children. All of her conduct is such that would clearly be considered disgraceful, dishonorable and unprofessional. It reflects negatively on the profession and the Member and would also constitute conduct unbecoming.

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 practicing 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(s) (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 Practice 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 behavior.
- 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 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 to the public at large that the Member's conduct was unacceptable and would not be tolerated. It would discourage other

RECEs from engaging in similar conduct and send a specific message to the Member that her conduct is unacceptable. The Proposed Order would assist in rehabilitating the Member and ensure she learned fully 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 four (4) aggravating factors in this case.

1. Age of children – The children involved were toddlers, vulnerable, and unable to stand up for themselves and/or report the actions of the Member.
2. Pattern of behaviour – The behaviour was not a single incident and did not occur with one child solely.
3. Type of conduct – The Member's conduct was physically abusive and included some violence.
4. Emotional impact – There was evidence that the Member's behaviour had an emotional impact on at least one child, who remained fearful due to the Member's behaviour.

College Counsel submitted that the mitigating factors were that the Member plead guilty thereby saving the College the time and expense of a contested hearing. College Counsel also submitted that it was a mitigating factor that the Member has been a RECE for 3 years and had no prior discipline history.

College Counsel also asked the Panel to consider that there was no evidence that any of the children were actually physically injured as a result of the interactions.

Counsel outlined the importance of rehabilitation and suggested that the Member had made a start in accepting responsibility for her actions and acknowledging her guilt.

College Counsel advised the Panel that it should be mindful that a jointly proposed penalty should be accepted unless its acceptance was so egregious that it would bring the administration of justice into disrepute or it is otherwise not in the public interest. The College provided the Panel with four (4) cases to satisfy the Panel that the Proposed Order was proportionate and consistent with similar conduct:

1. *College of Early Childhood Educators v Victoria Maria Alves*, 2019 ONCECE 5

2. *College of Early Childhood Educators v Kwang Won Kim*, 2019 ONCECE 13
3. *College of Early Childhood Educators v Sarah McGivery Jenkins*, 2020 ONCECE 17
4. *College of Early Childhood Educators v Mandip Kaur*, 2020 ONCECE 16

College Counsel submitted that the Proposed Order was within the range of what is appropriate and in comparison, reasonably fell within the range of penalties in similar cases.

With respect to costs, College Counsel submitted that the agreed upon amount of \$1,000 was a symbolic amount that would partially cover the College's legal costs and expenses for a hearing.

Submissions of the Member on Penalty and Costs

Counsel for the Member submitted that he agreed with the College's submissions regarding the general principles of sentencing that the Panel should consider. He noted that from the Member's perspective, the key aspect should be remediation. He submitted that there needs to be due regard for how a person who has done wrong, is able to reintegrate themselves back into the profession. In crafting the Proposed Order, Member's Counsel submitted that the parties spent considerable time discussing the elements which do this, and the remediation component is quite substantial. He submitted that the coursework component would address any deficiencies in the Member's skills. He noted that the coursework is to be paid for by the Member and needs to be approved by the Registrar. Member's Counsel also pointed out that the mentorship would allow the Member to operationalize what she has learned and hopefully avoid her appearing again before the Discipline Committees.

With respect to the proposed suspension, Member's Counsel submitted that in considering the length, the Panel should balance the weight of the specific facts, the Member's prior history, the general sentencing principles as well as past jurisprudence. Member's Counsel submitted that the proposed suspension was within the reasonable and historical range of penalty for similar conduct, albeit at the high end of that range. Member's Counsel also provided the Panel with three (3) cases for consideration:

1. *College of Early Childhood Educators v Kwang Won Kim*, 2019 ONCECE 13
2. *College of Early Childhood Educators v Georgina Marie Guyett*, 2017 ONCECE 3
3. *College of Early Childhood Educators v Kelly Marion*, 2018 ONCECE 4

Member's Counsel noted that the Proposed Penalty was reasonable and reflected the totality of the case law.

PENALTY DECISION

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

1. The Member is required to appear before the 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, the following course(s) (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 behavior.
- 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 appropriate level of penalty. The Panel therefore considered the previous cases which were presented by the parties 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 by agreeing to the facts and proposed penalty and has accepted responsibility for her conduct.

The Panel found that the penalty order satisfies the principles of specific and general deterrence and public protection. The suspension of the Member, along with the reprimand, will act as specific deterrent to the Member from engaging in this type of conduct again and a general deterrent to other members of the profession, hopefully preventing them from engaging in such similar conduct.

The Panel found that the suspension is necessary in this case to address the Member's engagement in physical and emotional abuse of children and her use of force. It is never appropriate to use physical violence or force to get children to cooperate. The Member should have a number of strategies at her disposal to deal with behaviours and physical violence is certainly not one of them. Both physical and emotional abuse of children cannot be tolerated. The Panel trusts that this suspension will demonstrate to the Member how seriously the College takes this kind of behaviour and allow her time to reflect on her actions.

The terms, conditions and limitations imposed as part of the penalty order, including the successful completion of courses in building positive and responsive relationships with children and positive intervention strategies, the mentoring sessions and the Reprimand will help to rehabilitate the Member and educate her regarding best practices for early learning. This will also help to protect the public. The Member can clearly benefit from remediation before she returns to practice and it is our hope that the Member will rehabilitate her behaviour and return to the profession with a renewed commitment.

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, 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.

A handwritten signature in cursive script, appearing to read "Garry Bates", written in black ink. The signature is positioned above a horizontal line.

Garry Bates, Chairperson

Date: December 22, 2020