

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Zachary Solomon Yudin 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: CeCil Kim, RECE, Chairperson
Melissa Downey, RECE
Barney Savage

BETWEEN:)
)
COLLEGE OF EARLY) Vered Beylin
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
)
- and -)
)
ZACHARY SOLOMON YUDIN) Self-represented,
REGISTRATION # 44606)
)
)
)
)
) Elyse Sunshine,
) Rosen Sunshine LLP
) Independent Legal Counsel
)
) Heard: June 23, 2020

DECISION AND REASONS

This matter was heard via videoconference by a panel of the Discipline Committee of the College of Early Childhood Educators (the "Panel") on June 23, 2020.

At the outset, the Panel ordered that no person shall make any audio or video recording of these proceedings by any means, with the exception of oral evidence that is recorded at the direction of 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 *Early Childhood Educators Act, 2007* (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 May 27, 2020, (Exhibit 1) which provided as follows:

1. At all material times, Zachary Solomon Yudin (the "Member") was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator ("ECE") at the Bruce WoodGreen Early Learning Centre (the "Centre") in Toronto, Ontario.
2. On or about February 8, 2018 the Member and another ECE, C.T., were supervising a group of kindergarten aged children at the Centre's after school program, including a 4½ year old girl (the "Child"). The Member and C.T. decided to take the children to the gym. Prior to transitioning from the kindergarten classroom to the gym, at approximately 4:20 p.m., the Member did not conduct a headcount to ensure all of the children were present. The Child was in the washroom at the time, and the Member failed to notice that the Child was missing.
3. The Member and C.T. took the children to the gym before the Child exited the washroom. As a result, the Child remained unsupervised.

4. Shortly after the Member and C.T. left the Child behind, the Child put on her winter clothes, took her backpack and left the Centre. The Child then walked home, alone, a distance of approximately 900 metres. To get home, the Child had to cross a number of streets and traffic lights. When the Child arrived home there was no one inside and it was locked.
5. A neighbour observed the Child alone, near her home, and notified the Child's parents. The Child was upset and had urinated in her pants.
6. The Member and C.T. noticed that the Child was missing about 50 minutes after leaving to the gym, at approximately 5:10 p.m. However, they simply assumed that the Child's parents picked her up without them noticing. The Member did not call the Child's parents to verify the Child's whereabouts. The Member also did not alert the Centre's Manager to the fact that he did not know where the Child was.
7. 20 minutes later, at approximately 5:30 p.m., the Child's father called the Centre and notified C.T. that the Child was home safe.
8. By engaging in the conduct set out in paragraphs 2-7 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act in that:
 - a) The Member failed to supervise adequately a person who was under his professional supervision, contrary to Ontario Regulation 223/08 (the "Regulation"), subsection 2(2);
 - b) The Member failed to maintain the standards of the profession, contrary to the Regulation, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice (the "Standards");
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the Standards;

- iii. The Member failed to implement strategies to ensure sufficient time for safe and supportive transitions while maintaining supervision at all times, contrary to Standard III.C.8 of the Standards;
 - iv. The Member failed to know the current legislation, policies and procedures that are relevant to his professional practice and to the care and education of children, contrary to Standard IV.B.1 of the Standards;
 - v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that his conduct reflects on him as a professional and on his profession at all times, contrary to Standard IV.C.4 of the Standards;
 - vi. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the Standards;
- c) The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to the Regulation, subsection 2(10); and/or
- d) The Member acted in a manner that is unbecoming a Member, contrary to the Regulation, 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 7 years. He 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.

The Incident

3. On February 8, 2018, the Member and another ECE, C.T., were supervising a group of kindergarten-aged children at the Centre's after school program, including the Child.
4. Shortly before 4:20 p.m. the Child went to the washroom. The Member and C.T. did not notice that the Child was in the washroom. A few minutes later, the Member and C.T. left the kindergarten classroom with the other children and took them to the School's gym. As a result, the Child was left behind, alone and unsupervised.
5. Shortly after the Member and C.T. left, the Child came out of the washroom and saw that there was no one in her kindergarten classroom. The Child put on her winter clothes, took her backpack and left the Centre. At the time, it was windy and the temperature outside was negative 7 degrees Celsius.
6. The Child then walked home, alone, for a distance of approximately 900 metres. To get home, the Child had to cross a number of streets and traffic lights. When the Child arrived at her home, the door was locked.
7. A neighbour observed the Child alone near her home and notified the Child's parents. The Child was upset and had urinated in her pants.
8. At approximately 5:10 p.m., 50 minutes after leaving for the gym, the Member and C.T. brought the group of children they were supervising back to the kindergarten classroom. The Member checked the Daily Attendance Form (the "Attendance Form") and noticed that the Child was not present, despite not being signed out. The Member advised C.T. that the Child was missing. C.T. went to the cubby area and noticed that the Child's winter clothes and bag were gone. C.T. then told the Member that the Child "must have been picked up without them noticing it". The Member then signed the Child out.
9. 20 minutes went by, while the Member and C.T. failed to take immediate steps to locate the Child and ensure her safety:
 - a) They did not call the Child's parents to verify the Child's whereabouts; and
 - b) They did not report the Child's absence to the Centre's management.

10. At approximately 5:30 p.m., the Member finished working and left for the day. At that time the Child's father called the Centre and inquired with C.T. about the Child's whereabouts. C.T. advised that the Child had been picked up. The father became furious and told C.T. that the Child had walked home by herself.
11. Between 4:20 p.m. and 5:30 p.m. the Member breached the Centre's policies in the following ways:
 - a) He did not conduct a proper headcount prior to transitioning from the kindergarten classroom to the gym, to ensure all of the children were present;
 - b) He did not use the Attendance Form to verify if he had taken all of the children in the group to the gym; and
 - c) He did not note on the Attendance Form the number of children he took to the gym.

Additional Information

12. The Member began working for WoodGreen Early Learning Centres ("WoodGreen") as a supply ECE several months prior to the incident. He worked there approximately once a week, rotating between WoodGreen's six locations. The Member supervised the Child's kindergarten group only a few times prior to the incident.
13. Prior to the incident, A.S. (RECE) advised the Member to pay particular attention to the Child because she may more easily get separated from the group than other children.
14. The Member continued to be employed by WoodGreen after the incident. WoodGreen's Vice President confirmed that there were no prior concerns regarding the Member and that there were no further concerns since this incident occurred.
15. If the Member were to testify, he would advise the following:
 - a) Prior to leaving to the gym the Member began doing a headcount and "calling out numbers", but he was unfamiliar with the children's names and it was "taking him a long time". It was a hectic day and some of the children were crying. C.T. then stopped the Member halfway through the headcount, and told him "we got them all".

The Member then relied on C.T. and proceeded to take the children to the gym with C.T.

- b) The Member was deeply concerned about the Child's wellbeing, once he learned that she walked home by herself.
- c) As a result of this incident, WoodGreen placed the Member on probation for a period of 18 months. During the first month, WoodGreen's Supervisor frequently checked on the Member at random times, to ensure that he followed all supervision practices and procedures.
- d) The Member learned from this incident and is now more assertive and speaks up when recognizing an issue that might impact children's safety. He also no longer relies on "assumptions" made by other staff members and ensures to independently double check attendance and conduct headcounts.

Admissions of Professional Misconduct

16. The Member admits that he engaged in and is guilty of professional misconduct as described in paragraphs 3 - 11 above, and as defined in subsection 33(2) of the Act in that:

- a) The Member failed to supervise adequately a person who was under his professional supervision, contrary to the Regulation, subsection 2(2);
- b) The Member failed to maintain the standards of the profession, contrary to the Regulation, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard 111.C.2 of the Standards;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard 111.C.5 of the Standards;
 - iii. The Member failed to implement strategies to ensure sufficient time for

safe and supportive transitions while maintaining supervision at all times, contrary to Standard 111.C.8 of the Standards;

iv. The Member failed to know the current legislation, policies and procedures that are relevant to his professional practice and to the care and education of children, contrary to Standard IV.B.1 of the Standards;

v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that his conduct reflects on him as a professional and on his profession at all times, contrary to Standard IV.C.4 of the Standards;

vi. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the Standards;

c) The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to the Regulation, subsection 2(10); and/or

d) The Member acted in a manner that is unbecoming a Member, contrary the Regulation, 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 contained in the Agreed Statement of Facts. The Member failed to supervise a young child, which is a major breach of the standards of practice. Counsel for the College noted that the Child walked from the Centre to her home, which involved crossing many intersections, including some with traffic lights. The weather was cold and windy, adding to the Child's risk of harm. By failing to conduct a count of the children, the Member failed in his duty to maintain a healthy and safe environment for the Child.

The College submitted that policies and procedures are designed to ensure safe and effective transitions. The Member did not abide by the Centre's policies and procedures. Respecting these policies and procedures could have prevented the incident from occurring and would have reduced the potential impact of the error.

The failure to take immediate action once the Member realized the Child was missing demonstrated a lack of professionalism and leadership. The Member also failed to make a report to Centre management or other authorities about the incident, as required by the Code of Ethics and Standards of Practice.

Counsel for the College acknowledged that the Member's efforts to try to abide by his professional responsibilities were thwarted by his colleague, C.T. (and counsel noted that there will be a future hearing to deal with that member). However, the Member still had his own professional responsibilities. The Panel's focus is on the responsibility of this Member to demonstrate respect, trust and integrity among his colleagues, and to communicate effectively with colleagues in order to ensure a safe and healthy environment for children, as stipulated in the Code of Ethics and Standards of Practice. The questionable conduct by the Member's colleague does not absolve this Member of his professional responsibilities. The Member had been told to pay particular attention to this Child. He did not notice she was missing for some time and even once he did notice she was missing, he did not take immediate steps to report her absence. This was a serious disregard of his professional obligations and is clearly unbecoming.

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 him guilty of professional misconduct as alleged in the Agreed Statement of Facts and the Notice of Hearing.

The Panel carefully considered the evidence contained in the Agreed Statement of Facts, and the verbal submissions of College Counsel. The duty to adequately and effectively supervise children in the care of RECEs is fundamental to the professional responsibility to ensure a safe and healthy environment for children. That is why the Panel places a very high priority on respecting the policies, procedures and practices that guide effective transitions in early learning settings. The evidence demonstrated that the Member failed to adequately supervise a kindergarten age child under care. The Child was able to leave the school grounds and cross several streets and return home. The Member did not employ the procedures or strategies which could have prevented the incident or minimize the time that the Child was missing. This is a breach of the standards of the profession. The Child was missing for a significant period of time and even when it was discovered that the Child was missing, no steps were taken to report the situation. A lost child and the failure to report and deal appropriately with same reflects negatively on the profession. It is conduct unbecoming a member of the profession. The Member's actions can only be viewed as disgraceful, dishonourable and unprofessional.

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

Mentorship

- a. Prior to the Member commencing or resuming employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act ("Employment"), the Member, at his own expense, will arrange for 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.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address, and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty and Costs, and
 - iv. a copy of the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor 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 he is meeting the Standards (without disclosing personal or identifying information about any of the children under the Member's care, or clients of his employer(s)).
- e. After a minimum of 5 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,

- ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into his behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.
 - g. The College may require proof of compliance with any of the terms in this Order at any time.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid in accordance with the following payment schedule:
- a. \$200 sixty (60) days following the date of the Order;
 - b. \$200 ninety (90) days following the date of the Order;
 - c. \$200 one hundred and twenty (120) days following the date of the Order;
 - d. \$200 one hundred and fifty (150) days following the date of the Order; and
 - e. \$200 one hundred and eighty (180) days following the date of the Order.

Submissions of the College on Penalty and Costs

Counsel for the College advised that there are far too many cases where the College has had to investigate a failure to properly supervise children in their care. However, she submitted that this was one of the most significant supervision cases before the Committee because of the failure to notice that the Child was missing and because of the failure to take action once it was discovered that the Child was missing. Counsel for the College urged the Panel to send a strong message about these failures. College Counsel provided nine aggravating factors that the Panel was advised to consider in making its decision about penalty. These factors were:

- The age of the Child – The Child was only 4.5 years old.
- The length of time the Child was missing – A total of 50 minutes elapsed before the Child’s absence was noticed.
- Distance of travel – The Child travelled approximately 900 meters unsupervised.
- Risk to Child – The distance the Child travelled without supervision included a number of road intersections, some with traffic lights.
- Weather – On the day of the incident, the weather was cold and windy. The Child had dressed herself and she likely would not have been adequately protected from the cold. The weather may have also impacted driving conditions which would increase the risk to the Child in crossing streets.
- Impact on Child – There was evidence that the Child was emotionally impacted by the incident, as demonstrated by her crying and having urinated in her pants.
- Impact on the family – The Child’s father contacted the Centre and was furious about the incident.
- Procedures were ignored – Had the Member abided by the policies and procedures that were in place at the Centre, this incident might have been avoided, and/or the impact of the mistake might have been reduced.
- Lack of action following being made aware of the problem – There was no immediate response once the Member realized the mistake had been made. In fact, the Member made an assumption that the Child had been picked up by someone authorized to do so, and inappropriately recorded that such a sign-out had occurred. There was no follow-up with the family, and no report to Centre management.

College Counsel noted that this final aggravating factor is unique to this case, and that the failure to take immediate action might have had an enormous impact on the health and well-being of the Child.

College Counsel also asked the Panel to consider five mitigating factors:

- The Member acknowledged his wrongdoing, took responsibility for his actions, and was cooperative throughout the process.
- By agreeing to proceed by way of an Agreed Statement of Facts and a Joint Submission on Penalty and Costs, the Member saved the College considerable time and expense.

- The Member has been registered with the College for seven years and has no history of misconduct. The Member's supervisor has confirmed that there have been no other incidents of concern before or after the incident.
- The Member was the person who finally noticed that the Child was missing, demonstrating a general awareness of the importance of attendance checks.
- The Member was not alone in making this error. Another qualified colleague RECE interrupted the Member's head count and assured the Member that all the children were present.

Finally, College Counsel asked the Panel to consider two additional factors:

- The Child incurred no physical harm as a result of the incident.
- This was an isolated incident, and there is no evidence that this is part of a pattern of behaviour.

College counsel provided the Panel with three recent decisions by the Discipline Committee that considered the question of inadequate supervision:

- *College of Early Childhood Educators v. Rebecca Ann Wardhaugh*, 2019 ONCECE 19
- *College of Early Childhood Educators v. Sarah Ashley Walton*, 2019 ONCECE 10
- *College of Early Childhood Educators v. Jenny Ng-Nakatani*, 2019 ONCECE 17

It was submitted that while no two cases are identical, each of these cases is helpful in providing guidance in determining an appropriate penalty and demonstrating that the Proposed Order was proportionate. The severity of this particular case is arguably much higher, because of the length of time the Child was missing, the failure to take action after noticing the Child was missing, and the potential for harm. This severity might warrant a greater penalty than other cases. However, a significant and unique mitigating factor in this case is that another qualified RECE contributed significantly to causing this error and failing to respond appropriately. The Panel was urged to balance the increased severity of the error with this critical mitigating factor.

Finally, on the question of costs, College counsel urged the Panel to accept the recommendation on costs and submitted that the individual Member should bear some financial responsibility for the costs associated with investigating and prosecuting this matter.

Submissions of the Member on Penalty and Costs

The Member did not make any submissions on penalty or costs.

PENALTY DECISION

The Panel accepted the Joint Submission on Penalty and makes the following order as to penalty:

1. The Member is required to appear before 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 7 months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:

Mentorship

- a. Prior to the Member commencing or resuming employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act ("Employment"), the Member, at his own expense, will arrange for 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.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address, and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty and Costs, and
 - iv. a copy of the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor at least every 2 weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,

- iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that he is meeting the Standards (without disclosing personal or identifying information about any of the children under the Member's care, or clients of his employer(s)).
- e. After a minimum of 5 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into his behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.
- g. The College may require proof of compliance with any of the terms in this Order at any time.

REASONS FOR PENALTY

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. It is the Panel's conclusion that the recommended penalty is appropriate and within these guidelines.

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 general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation. The penalty should be proportionate to the misconduct.

The Panel is aware that its decisions will send a signal to the profession and to the public that violations of professional standards will not be tolerated. Adequate supervision of children in the care of RECEs is fundamental to protecting the health and safety of children, which is the ultimate responsibility outlined by the College's Code of Ethics. For this reason, decisions governing cases of inadequate supervision of children are a key element of the College's responsibility to govern the profession in the public interest. This case was unique due to the severity of the potential risk to the Child, a risk that was significantly increased because the Member and his colleague failed to take immediate and appropriate action upon discovering that they had no knowledge of the Child's whereabouts for about 50 minutes. Professionals must be accountable, including when mistakes are made. When the mistake threatens the health and safety of a child, this is particularly important. We accept that the penalty is of sufficient severity to deter other members of the profession from engaging in similar conduct in the future.

In considering the penalty, we considered the goal of specific deterrence. In this case, the Panel wishes to send a clear message to this Member that although he was not exclusively responsible for the error in this case, he had a professional responsibility to communicate clearly with his colleague and to take immediate action when a significant error had occurred. We trust that he will not engage in misconduct of this nature again.

The mentorship recommended by the parties should assist the Member to reflect on his error and consider the importance of abiding by the Standards of Practice and Code of Ethics. This will be important as he seeks to continue his professional practice and will achieve the objective of rehabilitation.

The Panel considered the cases that were presented by College Counsel. We agree that the severity of the risk presented in this particular case may be higher than in comparable cases. However, we also agree that a critical mitigating factor is the role played by a colleague RECE

in the action that led to the error and the failure to respond immediately and appropriately. For these reasons, we concluded that the recommended penalty was proportionate and represents a fair and reasonable balance of these factors.

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 in accordance with the following payment schedule:

- a. \$200 sixty (60) days following the date of the Order;
- b. \$200 ninety (90) days following the date of the Order;
- c. \$200 one hundred and twenty (120) days following the date of the Order;
- d. \$200 one hundred and fifty (150) days following the date of the Order; and
- e. \$200 one hundred and eighty (180) days following the date of the Order.

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



CeCil Kim, RECE, Chairperson

July 15, 2020

Date