

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

IN THE MATTER OF the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sched.
8 (the "ECE Act") and the Regulation (Ontario Regulation 223/08) thereunder;

AND IN THE MATTER OF discipline proceedings against TARA-LEIGH GEORGE,
currently suspended for non-payment of fees, of the College of Early Childhood
Educators.

Panel: Sasha Fiddes, RECE - Chair
 Rosemary Fontaine
 Lori Huston, RECE

BETWEEN:)	
COLLEGE OF EARLY)	Vered Beylin,
CHILDHOOD EDUCATORS)	for the College of Early Childhood
)	Educators
)	
- and -)	
)	
TARA-LEIGH GEORGE)	No Representation
REGISTRATION # 52691)	
)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP,
)	Independent Legal Counsel
)	
)	Heard: November 13, 2018

DECISION AND REASONS

This matter came on for a hearing before a panel of the Discipline Committee of the College of Early Childhood Educators (the "Panel") on November 13, 2018.

THE ALLEGATIONS

Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegation set out in paragraph 10(a) of the Notice of Hearing dated September 18, 2018 relating to a failure to maintain the standards of practice of the profession, contrary to Ontario Regulation 223/08, subsection 2(8) because the conduct relating to that allegation was caught by the other heads of misconduct and to avoid the necessity for the calling of expert evidence. The Panel granted this request.

The remaining allegations against Tara-Leigh Rachel George (the "Member"), as stated in the Notice of Hearing dated September 18, 2018 (Exhibit #1), are as follows:

1. At all material times, the Member was a member of the College of Early Childhood Educators (the "College").
2. On or about July 18, 2016, the College received a public complaint regarding the Member. The complaint was investigated and a panel of the Complaints Committee (the "Complaints Panel") reviewed the results of the investigation.
3. On or about October 2, 2017, the Complaints Panel issued its Decision and Reasons with respect to the complaint (the "Decision"). The Complaints Panel decided to direct the Member to appear before the Complaints Committee to be cautioned ("verbal caution").
4. On or about October 10, 2017, the College sent the Decision to the Member via mail based on the information the Member had provided to the College. The Decision was accompanied by a cover letter that asked the Member to select one of three dates to attend the verbal caution. The Member was given a deadline of October 27, 2017 to respond.
5. The College did not hear from the Member on or before October 27, 2017.
6. A few days later, on or about November 1, 2017, the College called the Member twice based on the information the Member had provided to the College, but was unable to reach her because the line was busy. As a result, the College sent its first follow-up correspondence to the Member indicating that the deadline to select a date to appear at the College for the verbal caution would be extended until November 6, 2017.

7. The College did not hear from the Member on or before November 6, 2017.
8. A few days after the deadline had passed, on or about November 8, 2017, the College sent its second follow-up correspondence to the Member advising her that the College had selected December 13, 2017 at 9:30 a.m. as the date and time that the Member was required to attend at the College for her verbal caution.
9. The Member failed to attend her verbal caution on December 13, 2017 at 9:30 a.m. and had not responded to any of the College's communications to her.
10. By engaging in the conduct set out in the above paragraphs, the Member engaged in professional misconduct as defined in subsection 33(2) of the Early Childhood Educators Act, 2007, S.O. 2007, c. 7, Sch. 8 (the "Act"), in that:
 - b) 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);
 - c) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22);
 - d) she failed to appear before the Complaints Committee to be cautioned, when the Complaints Committee required the Member to appear under clause 31(5)(c) of the Act, contrary to Ontario Regulation 223/08, subsection 2(23); and/or
 - e) she failed to respond adequately or within a reasonable time to a written inquiry from the College, contrary to Ontario Regulation 223/08, subsection 2(28).

MEMBER'S PLEA

As the Member was not present, nor represented by counsel, the Panel proceeded on the basis that the Member denied the allegations as set out in the Notice of Hearing dated September 18, 2018 (Exhibit #1).

NOTICE PROVIDED TO THE REGISTRANT

The College submitted that the Member was aware of the date and time of the hearing and presented the Panel with three separate affidavits as evidence of same : the affidavit of Kimberly Williams, dated November 1, 2018 (Exhibit #3), the affidavit of Maria Serafini, dated November 6, 2018 (Exhibit # 4) and the affidavit of Jené Gordon, dated November 5, 2018 (Exhibit #6).

These Affidavits demonstrated, *inter alia*, that:

- Prior to the hearing, the Member received nine (9) notifications of the date of the hearing and was told that the hearing could proceed in her absence. These notifications were sent by registered mail and email. Additional attempts were made to reach the Member by telephone.
- Prior to the hearing, the Member received seven (7) notifications relating to the penalty and costs that would be sought by the College in the event that findings of misconduct were made. These communications were sent by registered mail and email. Additional attempts were made to reach the Member by telephone.

All of the Affiants stated in their affidavits that they did not receive any response from the Member to the correspondences that were sent to her in connection with this hearing.

Further, on the day of the hearing, when the Member did not attend, College counsel attempted to reach the Member by telephone and email. In addition, the hearing start time was delayed to accommodate the Member in case she was running late. No response to any of the communications was made by the Member and the Member did not attend the hearing.

The Panel was satisfied that the Member had ample notice of this hearing, as well as the consequences of her non-attendance at the hearing. The Panel therefore directed that the hearing proceed in the Member's absence. As the Member did not attend the hearing, she was deemed to have denied the allegations set out in the Notice of Hearing.

THE EVIDENCE

This matter proceeded as a contested hearing.

The following documents were entered as exhibits during the course of the hearing:

The following exhibits were entered into evidence during the hearing:

Exhibit	Title
1	Notice of Hearing
2	Registrar's Certificate
3	Affidavit of Kimberly Williams
4	Affidavit of Maria Serafini
5	Email Correspondence
6	Affidavit of Jené Gordon
7	Correspondence to the Member regarding penalty
8	Email correspondence

The College called two witnesses to testify at the hearing:

Testimony of Jené Gordon

On October 10, 2017, Ms. Gordon sent the Decision of the Complaints Committee to the Member advising her that she was required to appear before the Complaints Committee to receive a verbal caution and asking her to select one of three dates to attend the verbal caution at the College. Although there was confirmation that the Member received the package, she did not respond to the correspondence.

Having not received a response, Ms. Gordon tried to call the Member on November 1, 2017 but the line was busy (twice). Accordingly, Ms. Gordon sent an email to the Member that same day advising that the College would extend the deadline to permit the Member to select dates to attend at the College for a verbal caution until November 6, 2017. The Member did not respond.

On November 8, 2017, Ms. Gordon sent another letter to the Member by registered mail and email advising her that the College had selected December 13, 2017 at 9:30 a.m. as the date and time that she was required to attend at the College for her verbal caution. The letter also advised that failing to appear for the verbal caution could constitute professional misconduct. The Member did not respond, nor appear for her verbal caution. Had the Member contacted anyone at the College within a reasonable time and provided an explanation, it is likely that she would not have been referred to the Discipline Committee.

Testimony of Maria Serafini

On August 17, 2018, Ms. Serafini sent the Member the College's disclosure materials by Registered Mail to her last known address. The Member was advised that the College would proceed with her discipline hearing even if she does not attend or participate. These materials were confirmed delivered.

On August 28, 2018, the Member was sent an email where she was provided with a brief overview of uncontested and contested hearings and asked about her availability to discuss her discipline matter. She was reminded again that the College would proceed with her discipline hearing, even if she does not attend or participate. She did not respond.

Accordingly, on September 6, 2018, a further email was sent to the Member asking about her availability to discuss her discipline matter. Once again, she was advised that the College would proceed with her discipline hearing even if she does not attend or participate.

Having received no response, on September 11, 2018, correspondence was sent to the Member informing her that the College proposed to schedule her discipline hearing for November 13, 2018 at 10:00 a.m. The Member did not respond.

On September 28, 2018, Ms. Serafini called the Member. The telephone rang and then transitioned into a busy signal. On October 1, 2018, she called the Member again and the same thing occurred. Accordingly, she emailed the College's Registration Department to inquire whether the Member had recently updated her contact information with the College. She had not. As a result, Ms. Serafini sent an email to the Member to remind her that her hearing would occur on November 13, 2018 at 10:00 a.m. at the offices of the College.

On October 5, 2018, correspondence was sent to the Member by registered mail advising her the College intended to seek revocation of her certificate of registration at the hearing. This same information was also attempted to be served by a process server but service was unable to be effected.

On October 26, 2018, an email was sent to the Member with information about the hearing and the fact that the College intended to seek revocation. Ms. Serafini also attempted to contact the Member by telephone but was unable to reach her.

Ms. Serafini contacted the Member's last known employer and was told they did not have an updated address for the Member. The Member never responded to any of the communications from the College.

Other Evidence

The College also provided the Affidavit of Kimberly Williams. Ms. Williams Affidavit provided that during the investigation of the complaint regarding the Member, the College had tried to contact the Member on numerous occasions but they had received no response. The Member did not respond to the investigation.

SUBMISSION OF COLLEGE COUNSEL AS TO FINDING

College counsel submitted that even though the Member did not attend the hearing, the College still has the burden of proof and is required to prove, on balance of probabilities, that the Member engaged in the misconduct alleged. College counsel submitted that the College met and exceeded the burden of proof. The College provided credible evidence that was unchallenged that established that the Member engaged in misconduct.

College counsel argued that the Member clearly failed to appear before the Complaints Committee to be cautioned, when the Complaints Committee required the Member to appear. The evidence established that the Member had received the decision of the

Complaints Committee yet did not attend to be cautioned, nor contact the College to explain her absence.

The College also established that Member failed to respond to written inquiries from the College. She did not respond to any inquiries from the College, even when specifically instructed to respond. The Member was advised of the consequences of not responding.

College counsel submitted that taken as a whole, the Member's conduct would be viewed as disgraceful, dishonourable or unprofessional and this does not require expert evidence. It would also constitute conduct unbecoming of a member.

DECISION ON THE ALLEGATIONS

The Panel found that the College met its onus and established, based on a balance of probabilities with respect to each allegation set out in the Notice of Hearing. Specifically, the Member was guilty of the following acts of misconduct as defined in subsection 33(2) of the Act, in that:

- 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);
- she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22);
- she failed to appear before the Complaints Committee to be cautioned, when the Complaints Committee required the Member to appear under clause 31(5)(c) of the Act, contrary to Ontario Regulation 223/08, subsection 2(23); and
- she failed to respond adequately or within a reasonable time to a written inquiry from the College, contrary to Ontario Regulation 223/08, subsection 2(28).

REASONS FOR DECISION

The Panel's reasons for making the findings of professional misconduct against the Member are set out below:

The Panel found that the allegations set out in the Notice of Hearings had been proved by the College through the testimony of the witnesses called and documents filed as exhibits at the hearing.

The Panel finds it regrettable that the Member chose not to attend or participate in the governance process of the College.

The Panel found, through the compelling and uncontroverted evidence presented by the College, that the Member failed to comply with the decision and direction of the Complaints Committee. It was uncontroverted that the Member was provided with the option of dates on which to attend the College to receive the verbal caution. She did not respond to this, an numerous other correspondences from her regulatory body. Ultimately, the Member did not attend the caution and did not provide any reason or explanation for failing to do so. Indeed the Panel also found that the Member consistently and repetitively failed to respond to the College's correspondences. She persistently chose to disregard her obligations to the profession and to her governing body.

By her behaviour, the Member has demonstrated that she is unlikely to meet her professional obligations and has no regard for the College and its mandate.

PENALTY

Having found the Registrant to have committed the acts of misconduct alleged, the Panel proceeded with a penalty hearing. The Panel was satisfied that the Registrant was well aware of the fact that if findings of misconduct were made against her, the matter would proceed to a penalty hearing the same day.

SUBMISSIONS OF COLLEGE COUNSEL AS TO PENALTY

The College proposed that the Panel impose the following order that:

1. The Registrar be directed to revoke the Member's Certificate of Registration effective immediately; and
2. The Member be required to pay to the College costs in the amount of \$10,000.00 within thirty (30) days from the date of the Order.

College counsel submitted that the College was asking for revocation of the Member's Certificate of Registration because no other penalty could protect the public. The Member, through her actions, demonstrated that she is ungovernable, including the failure to attend her own discipline hearing. The Member has demonstrated no interest in maintaining her Certificate of Registration – she has not even paid her membership dues. There were no mitigating factors in this case. The Member's conduct calls the profession's ability to self-regulate into question. Counsel urged the Panel to send a strong message to the Member and the public that self-regulation is a privilege and not a right.

With respect to costs, College counsel submitted that the Panel has jurisdiction to order costs. In this case, the hearing could have been avoided and as such, it is appropriate to order costs in the Tariff amount set out in the Discipline Committee Rules pursuant to Rule 16. 05.

PENALTY DECISION

After careful and thorough consideration of the College's submissions on penalty and the case law presented, and in the absence of any submissions by the Member, the Panel imposed the following penalty:

1. The Registrar is directed to revoke the Member's Certificate of Registration effective immediately; and
2. The Member is required to pay to the College costs in the amount of \$10,000.00 within thirty (30) days from the date of this Order.

REASONS FOR PENALTY

The College provided the Panel with a number of cases in support of its proposed penalty order and the fact that a member's governability could warrant revocation. Counsel for the College submitted that, while this case law was not binding on the Panel, many of the principles in these cases could provide guidance to the Panel with respect to the appropriate penalty in this case.

The factors considered by the Panel in determining that revocation was the appropriate penalty include:

1. A consistent and repetitive failure of the Member to respond to her governing body;
2. There was an element of neglect of her duties and obligations to her governing body;
3. She failed or refused to attend a verbal caution of the Complaints Committee; and
4. Her failure or refusal to attend at the discipline hearing.

The Panel also had regard for certain sentencing principles when deciding the appropriate penalty in this case. This included the College's overarching public protection mandate, as well as the principles of specific and general deterrence. The Panel found that revocation in this case would send a strong message both to the Member, as well as the profession as a whole and the general public, that self-regulation is a privilege and not a right. A repeated refusal to abide by the rules and regulations of the College, as well as the refusal to engage with the College, including attending discipline proceedings, will result in serious sanctions, including the most serious sanction of revocation of one's Certificate of Registration. Additionally, as the Member was not present at the hearing, there was no evidence she was accountable for her actions or remorseful. The Panel acknowledges that there is no requirement that a member must attend the discipline hearing, but a responsible member would attend the hearing.

By failing to communicate or engage in discussions with the College, the Member required the College to incur the full costs of a contested hearing. As well, by refusing to participate in the College's discipline process, the Member showed a disregard for the College's authority and thereby ignored the important role the discipline process serves in protecting public safety and maintaining professionalism.

In closing, it was clear to the Panel that the Member has blatantly ignored, and failed to communicate with the College. She did not attend for her caution, thereby not complying with an order of the College. Her conduct has culminated in her not attending this Discipline hearing, even though the Panel found that she had ample notice of this hearing, as well as her responsibilities and consequences for non-attendance at the hearing, including revocation of her Certificate of Registration. The Panel accepted that revocation is the only appropriate order, and was of the view that any possible remedial measures would be ineffective.

The Panel agreed with the College that this was an appropriate case to order costs, and that the figure of \$10,000.00 was reasonable.

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



Sasha Fiddes, Chairperson

Date: January 4, 2019