

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 June 14, 2019.

PUBLICATION BAN

The Panel ordered a publication ban following a motion by College Counsel 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 as set out in the Notice of Hearing dated April 25, 2019 (**Exhibit 1**¹), are as follows:

1. At all material times, Asma Ather Kidwai (the “**Member**”) was a member of the College of Early Childhood Educators (the “**College**”) and was the Executive Director at Eden Daycare Incorporated (the “**Centre**”), a child care centre in Mississauga, Ontario.

Incident #1

2. On or about March 4 and/or March 7, 2016, the Member was working at the Centre when a complaint was made to her about inappropriate conduct by an employee, Karen Sue Cheryl Griffith – RECE #04987 (“**K.G**”). K.G was the lead teacher in the senior toddler room. The children in the senior toddler room ranged in age from 2 to 2.5 years old.
3. Specifically, staff brought to the Member’s attention that K.G had grabbed a child by the shoulder. While seated on a chair, K.G held the child by his arms and pulled him downward hard and/or slammed the child to the ground. As a result, the child went from standing to seated, and started to cry.
4. K.G then said to the child words to the effect of, “you’re lazy” and “you can’t do anything yourself”.
5. While the child was sitting, K.G held the child by the straps of his snow pants and shook him back and forth, and proceeded to remove his boot – pulling on the boot and causing the child to fall backwards.
6. The Member did not report the incident to the Peel Children’s Aid Society (“**CAS**”).

¹ At the opening of the hearing, counsel for the College asked the panel to amend the Notice of Hearing due to a typographical error. The amendment was agreed to by the Member. The Panel allowed the correction of the typographical error in the Notice of Hearing. The allegations as set out in the decision therefore reflect the wording of the Notice of Hearing, as amended.

7. The incident was reported to the CAS by K.G's co-workers at the Centre. The CAS conducted an investigation and, on or about March 23, 2016, the CAS verified that K.G had used inappropriate physical force with a child, placing the child at risk of harm.
8. K.G received a three-day suspension by the Centre.
9. As a result of the CAS Investigation, the Ministry of Education ("MOE") contacted the College and informed the College that, in addition to the March 4, 2016 incident, K.G had been involved and/or disciplined by the Centre with respect to previous incidents on April 7, 2015, July 31, 2015, December 9, 2015, January 6, 2016, and March 4, 2016.
10. The previous incidents, outlined below, were not reported by the Member to the CAS or the MOE:

Incident #2

11. On or about March 4, 2016, K.G picked up a child by the arm and lifted him off the floor using one hand.
12. The incident was reported to the Member by staff at the Centre. K.G received a written warning dated March 8, 2016, regarding the incidents on or about March 4, 2016.

Incident #3

13. On or about March 4, 2016, K.G threw toys in the direction of and/or near children at the Centre and yelled at the children, saying word to the effect to bring the toys to her in the appropriate basket.
14. The incident was reported to the Member by staff at the Centre.

Incident #4

15. On or about January 7, 2016, K.G smacked her hand down on the lunch table hard and/or in an aggressive manner in front of a child.
16. K.G yelled at a child to use a spoon and saying words to the effect, "You are making a mess. Do it now."
17. The incident was reported to the Member by staff at the Centre.

Incident #5

18. On or about January 6, 2016, K.G picked up a child by the arm and carried him to his bed. The child's feet were off the ground as he was carried by K.G. K.G then placed the child on his bed, causing the child to cry.
19. The incident was reported to the Member by staff at the Centre.

Incident #6

20. On or about December 9, 2015, K.G was aggressive and/or roughly handled a child after learning the child had had a bowel movement. K.G attempted to pick the child up off the floor by the wrists and then dropped the child onto her knees and forcefully jerked and/or lifted the child by the wrists to a standing position.
21. K.G then grabbed and/or took the child, and moved her to a step stool, slamming and/or placing the child down on the stool hard. K.G pushed and/or grabbed the child in an aggressive and/or rough manner, as the child screamed and cried.
22. The incident was reported to the Member by staff at the Centre. K.G received a verbal warning.

Incident #7

23. On or about July 30, 2015, K.G pulled and/or grabbed a child by the shirt in an aggressive and/or rough manner. The incident was reported to the Member by the child's parent who witnessed the incident.
24. K.G received a written warning dated July 31, 2015, by the Centre.

Incident #8

25. On or about April 7, 2015, while walking to a church for a concert practice, K.G grabbed and/or pulled and/or took a child by the shoulder and pulled him towards her in an aggressive and/or rough manner.
26. K.G then said words to the child to the effect of telling him to stay with the group. It was said to the child in a firm and/or harsh and/or aggressive tone.
27. The incident was captured on video and reported to the Member by staff at the church. K.G was given a verbal warning by the Centre.
28. By engaging in the conduct set out in paragraph 2-27 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act, in that:
 - (a) she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - (b) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - (i) she failed to ensure that the needs and best interests of the children were paramount, contrary to Standard I.F of the Standards of Practice;
 - (ii) she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice;

- (iii) she failed to know, understand and abide by the legislation, policies and procedures that are relevant to her professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice;
 - (iv) she failed to work collaboratively with colleagues in her workplace in order to provide a safe, secure, healthy and inviting environment for children and families and failed to support, encourage and work collaboratively with her co-workers to enhance the culture of her workplace, contrary to Standard IV.C.1 of the College's Standards of Practice;
 - (v) she failed to provide guidelines, parameters and direction to supervisees that respected their rights and failed to ensure a level of supervision which was appropriate in light of her supervisees' education, training, experience and the activities being performed, contrary to Standard IV.C.3 of the College's Standards of Practice; and
 - (vi) she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice; and/or
- (c) 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);
 - (d) she failed to comply with the Act, the regulations, or by-laws, contrary to Ontario Regulation 223/08, subsection 2(19); and/or
 - (e) she contravened a law that caused or may have caused a child who was under the member's professional supervision to be put at or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
 - (f) she conducted herself 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 Notice of Hearing.

The Panel received a written plea inquiry which was signed by the Member (**Exhibit 3**). The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

EVIDENCE

Counsel for the College and Counsel for the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (**Exhibit 2**), which read as follows.

The Member

1. Asma Ather Kidwai (the “**Member**”) has held a certificate of registration with the College of Early Childhood Educators (the “**College**”) for approximately 11 years. She does not have a prior discipline history with the College.

Overview

2. At all material times, the Member was employed as the Executive Director at Eden Daycare Incorporated (the “**Centre**”) in Mississauga, Ontario.
3. At the time, KG was employed as a Registered Early Childhood Educator (“**RECE**”) at the Centre. KG was also the head RECE in the senior toddler room, where she was responsible for supervising children between 2 to 2½ years old.
4. Between April 2015 and March 2016, there were 8 incidents reported to the Member regarding concerns about KG’s interactions with children at the Centre. The Member did not report any of the incidents to:
 - a. the Peel Children’s Aid Society (“**CAS**”); and/or
 - b. the Ministry of Education.

Incident #1

5. On April 9, 2015, the Member received a report from MS (RECE) regarding KG’s behaviour two days earlier, on April 7, 2015.
6. According to the report, KG grabbed a child who was trying to run away from the group by the shoulder. KG then pulled the child towards her in an aggressive and rough manner while they were walking towards the sanctuary of the church from the daycare. KG went on to tell the child to stay with the group in an aggressive tone.
7. The incident was captured on video and reported to the Member by church staff, who then showed the video to the Member and the Assistant Director (RECE).
8. The Member agreed with the Assistant Director (RECE) and MS (RECE) that the interaction was not abusive. However, the Member considered KG’s actions “rough”. The Member issued a verbal warning to KG and recommended that KG attend workshops for training on “calm demeanour and resiliency” and “special handling of children with challenging behaviours”.

Incident #2

9. Approximately 4½ months later, on July 30, 2015, the Member received a report regarding KG’s behaviour at pick up that day.
10. According to the report, KG pulled and/or grabbed a child in the toddler room by the shirt in an aggressive and/or rough manner.

11. The incident was reported to the Member by the child's parent, who witnessed the incident.
12. The Member issued a written warning to KG on the following day. The Member recommended that KG attend counseling sessions aimed at improving her interactions with children.

Incident #3

13. Approximately 4 months later, on December 7, 2015, the Member received a report from VL (RECE) regarding KG's behaviour three days earlier, on December 4, 2015.
14. According to the report, KG aggressively and/or roughly handled a child who had soiled herself. KG attempted to pick the child up off the floor by the wrists, but the child resisted. KG then dropped the child onto her knees and forcefully jerked and/or lifted the child a second time by the wrists to a standing position.
15. The report further stated that at that point, KG grabbed the child by her left wrist and KG's hand became tangled in the child's hair. KG moved the child to a step stool, slamming and/or placing the child down on the stool in a hard and/or rough manner. KG then aggressively pushed the child to the floor, as the child screamed and cried.
16. As per VL, the incident was witnessed by VL and MG. VL reported the incident to the Member.
17. The Member issued another verbal warning to KG.

Incident #4

18. Approximately a month later, on January 8, 2016, the Member received a report from CB (RECE) regarding KG's behaviour two days earlier, on January 6, 2016.
19. According to the report, KG picked up a child by one arm and carried him to his bed. The child's feet were an inch or two off the ground and his body was twisting as he was carried by KG. KG then placed the child on his bed causing the child to cry.
20. The incident was witnessed by staff at the Centre, CB (RECE). CB (RECE) reported the incident to the Centre's Assistant Director (RECE), who then reported it to the Member.
21. The Member issued another written warning to KG, and imposed a written action plan to address concerns about her conduct.

Incident #5

22. Three days later, on January 11, 2016, the Member received a report regarding KG's behaviour four days earlier, on January 7, 2016.
23. According to the report, KG smacked her hand down on the lunch table in a hard and an aggressive manner in front of a child. KG then yelled at the child to use a spoon, saying words to the effect, "You are making a mess. Do it now."

24. The incident was witnessed by staff at the Centre, JC. JC reported the incident to the Centre's Assistant Director (RECE), who then reported it to the Member.

Incident #6

25. Approximately 1 month later, on March 4, 2016, the Member received a report regarding KG's behaviour earlier that morning.
26. According to the report, a child (the same child referred to in Incident #4) was having difficulty removing his winter clothing, so KG pulled him downward in an aggressive manner and/or slammed his bottom down on the ground. She then held the child by the straps of his snow pants and shook him. KG then pulled the child's boots off, causing the child to slide onto his back. As a result of KG's actions, the child began to cry.
27. The report further stated that KG then said to the child words to the effect of, "you're lazy" and "you can't do anything yourself".
28. This incident was witnessed by two staff at the Centre, VL (RECE) and CB (RECE). VL and CB reported the incident to the Member.

Incident #7

29. Three days later, on March 7, 2016, the Member received another report regarding KG's behaviour during the morning hours of the day Incident #6 occurred, being March 4, 2016.
30. According to the report, KG threw toys in the direction of some children in the toddler room and yelled at them.
31. The incident was witnessed by staff at the Centre, CB (RECE) and MG. MG reported the incident to the incident to the Centre's Assistant Director (RECE), who then notified the Member.

Incident #8

32. The same day, on March 7, 2016, the Member received another report regarding KG's behaviour near the end of the same day Incidents #6 and #7 occurred, being March 4, 2016.
33. According to the report, a staff member was holding a child when KG instructed the staff member to put him on the ground. When the staff member did so, the child began to cry. KG then picked up the child with one hand and held him by one of his arms.
34. The incident was witnessed by staff at the Centre, MK. MK reported the incident to the Centre's Assistant Director (RECE) on March 4, 2016, who then reported it to the Member on March 07, 2016.

Report to CAS by Staff

35. After Incident #8, on the evening of March 7, 2016, staff members VL and CB called CAS to report KG's behaviour regarding Incident #6. CAS conducted an extensive investigation into KG's behaviour as detailed above in Incidents #1 to #8. CAS then verified that KG used inappropriate physical force with a child, placing the child at risk of harm.

Further Actions Taken by the Member

36. After CAS began its investigation, the Member:
 - a. issued another written warning to KG;
 - b. suspended KG's employment at the Centre for three days without pay;
 - c. ordered KG to complete six workshops addressing resiliency, stress management and positive guidance, among other topics; and
 - d. prevented KG from being alone with the children for at least three months.
37. After CAS began its investigation, the Member submitted a Mandatory Employer Report to the College in relation to KG, regarding Incident #8.

Additional Information

38. If the Member were to testify she would advise that following:
 - a. Two of the staff who reported KG's behavior to the Member, VL (RECE) and CB (RECE), did not have a good relationship with KG. As a result, the Member did not fully believe their observations.
 - b. Although the Member did not believe that any of the incidents were severe enough to warrant a report to the CAS, out of an abundance of caution, the Member disciplined KG to reinforce the Member and the Centre's commitment to ensuring safety and positive interactions with children.
 - c. The Member made detailed notes in relation to each report, her follow up in relation to it and the disciplinary measures she imposed on KG.
 - d. The Member knew that KG had hearing loss in one ear, which caused her to "use her voice a lot". KG also had a medical condition which made it difficult for her to physically assist the children.
 - e. Following the CAS investigation, the Member completed a workshop on "Duty to Report" immediately and also provided the workshop for the Centre's staff. The Member also completed a series of courses and programs respecting professional responsibility, effective management techniques and human resources practices as they relate to childcare organizations and general workshops pertaining to childcare.

Admissions of Professional Misconduct

39. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 35 above, and as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
- a. she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b. she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. she failed to ensure that the needs and best interests of the children were paramount, contrary to Standard I.F of the Standards of Practice;
 - ii. she failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the Standards of Practice;
 - iii. she failed to know, understand and abide by the legislation, policies and procedures that are relevant to her professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice;
 - iv. she failed to work collaboratively with colleagues in her workplace in order to provide a safe, secure, healthy and inviting environment for children and families and failed to support, encourage and work collaboratively with her co-workers to enhance the culture of her workplace, contrary to Standard IV.C.1 of the College's Standards of Practice;
 - v. she failed to provide guidelines, parameters and direction to supervisees that respected their rights and failed to ensure a level of supervision which was appropriate in light of her supervisees' education, training, experience and the activities being performed, contrary to Standard IV.C.3 of the College's Standards of Practice; and
 - vi. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice; and/or
 - c. 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);
 - d. she failed to comply with the Act, the regulations, or by-laws, contrary to Ontario Regulation 223/08, subsection 2(19);
 - e. she contravened a law that caused or may have caused a child who was under the member's professional supervision to be put at or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
 - f. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

DECISION ON THE ALLEGATIONS

Having regard to the facts set out in the Agreed Statement of Facts, the Committee accepted the Member's admission and found that she committed acts of professional misconduct set out in the Notice of Hearing as outlined above.

REASONS FOR DECISION

The Panel considered the Agreed Statement of Facts and the Member's plea and found that the evidence supported findings of professional misconduct as alleged in the Notice of Hearing.

The allegations in the Notice of Hearing are supported by the evidence in the Agreed Statement of Facts.

The focus of this particular case was the duty to report potential cases of abuse of children. The member has an enhanced expectation in this regard, as a result of her leadership position as Executive Director.

The duty to report is extremely important in the profession, duties that are described in the *Child and Family Services Act* and the Act. These responsibilities to report constitute a legal requirement, and they are a critical element of the professional responsibility of all members to protect the safety of children in care.

The evidence shows that the Member was in possession of significant information regarding a registered early childhood educator that would have triggered her mandatory reporting obligations. The failure to make a report when she should have is a failure to properly supervise children and a breach of standards,

The Panel also finds that the Member's conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional. The Member failed to know, understand and abide by the relevant legislation, policies and procedures

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and Counsel for the Member made a joint submission as to an appropriate penalty. The joint submission as to penalty proposed 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 4 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, 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 of Professional Regulation (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 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)).
- 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 her 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 on the date of this Order.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon and the findings of misconduct made.

Counsel for the College submitted that the proposed penalty was appropriate and protected the public interest by serving the functions of general and specific deterrence, as well as rehabilitation of the Member. Counsel noted that this was the first case of its kind and as such, there were no exact precedents to guide the Panel, given that no other case existed with an exclusive focus on the duty to report. However, Counsel asserted that the proposed penalty was proportionate to the misconduct and provided cases that, in certain respects, were similar. In this regard, College Counsel provided two other cases from this College in support of the proposed penalty: *College of Early Childhood Educators v. Rainey* (2013) 2013 ONCECE 5 (CanLII) and *the College of Early Childhood Educators v. Hashimi* 2018 ONCECE 3 (CanLII)

The parties agreed that the four mitigating factors in this case were:

- The Member did not dismiss the behaviour. She assembled detailed notes, and disciplined the employee.
- The Member fully cooperated with the investigations conducted by the College and Children's Aid Society.
- The Member acknowledged her wrongdoing and pleaded guilty, thereby saving the College significant money and resources.
- The Member has been a College member for 11 years, and has an otherwise clean record.

The two aggravating factor(s) in this case were:

- The incidents that should have been reported occurred over 11 months, suggesting that the failure to report was not a momentary lack of judgement.
- The Member is a leader and role model. As an Executive Director, she had enhanced professional responsibilities to adhere to legislation.

In addition, it should be noted that there is no evidence that any significant harm occurred to a child as a result of the conduct of the RECE supervised by the Member.

PENALTY DECISION

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

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 4 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, 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.

- 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 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)).
- 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 her 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 on the date of this Order.

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, and this particular case is – to a certain degree – unprecedented. However, reviewing earlier cases can help determine the level of appropriate penalty. The Panel therefore considered the previous cases that were presented.

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

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

The Panel found that the penalty satisfies the principles of general deterrence and public protection. This suspension is appropriate given the aggravating factors in this case. The suspension, along with the reprimand, will act as specific deterrents to the Member, and general deterrents to other members of the profession, from engaging in such conduct. The Member will be rehabilitated through the mentorship described in the joint submission on penalty.

While we consider the penalty to be appropriate and would not bring the administration of justice into disrepute, the Panel did make note that the recommended mentorship might be improved in future cases. Specifically, we would recommend that the topics for consideration in discussions between mentor and mentee should include how the issues to be addressed in mentorship might be effectively linked to the College's existing requirement for a Member's Continuous Professional Learning (CPL) portfolio. This is a requirement for all RECEs, and it would be appropriate that a CPL portfolio consider those issues that the Discipline process of the College has identified as an appropriate area of focus.

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 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 \$1000 on the date of this Order.

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

 , RECE

Kristine Parsons, RECE, Chairperson

July 15, 2019

Date