

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Virginia Wai-Yee Me, 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 Early Childhood Educators Act, 2007.

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

PANEL: Barbara Brown, RECE, Chairperson
Kristine Parsons, RECE
Barney Savage

BETWEEN:)
)
COLLEGE OF EARLY) Vered Beylin
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
)
- and -)
)
VIRGINIA WAI-YEE ME) Thomas Rudinkas,
REGISTRATION # 57020) Bongard Rudinkas Barristers & Solicitors,
) for the Member
)
)
)
) Elyse Sunshine
) Independent Legal Counsel
)
)
)
) Heard: June 10, 2019

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 10, 2019.

PUBLICATION BAN

The Panel ordered a publication ban following a motion (on consent) by College Counsel pursuant to section 35.1(3) of the *Early Childhood Educators Act, 2007*. 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 stated in the amended Notice of Hearing dated April 22, 2019 (Exhibit 1), are as follows:

1. At all material times, Virginia Wai-Yee Me (the “**Member**”) was a member of the College of Early Childhood Educators (the “**College**”) and was employed as an Early Childhood Educator at the Oakridges YMCA Before and After School Program (“**Program**”), located in Richmond Hill, Ontario.
2. On or about September 8, 2016, the Member and another staff member, C.V., were responsible for supervising a group of children attending the Program.
3. At approximately 3:30pm, a five year-old child left the room unsupervised and/or walked through the Program’s playground and/or through a school bus lane and/or across a busy residential street.
4. The child was outside and unsupervised for approximately 15 minutes. He was found by a community member, crying, and returned to the Program.
5. The Member was unaware that the child had left the Program and was unaccounted for during the time that the child was missing.

6. By engaging in the conduct set out in paragraphs 2-5 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8 (the “**Act**”), in that:
- a) The Member failed to adequately supervise a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b) The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College’s Standards of Practice;
 - ii. The Member failed to know, understand and abide by the legislation, policies and procedures that were 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;
 - iii. The Member failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College’s Standards of Practice;
 - iv. The Member failed to work collaboratively with colleagues in her workplace in order to provide safe, secure, healthy and inviting environments for children and families, and/or failed to build effective relationships with colleagues and other professionals by using clear verbal and written communication, contrary to Standard IV.C.1 of the College’s Standards of Practice; and/or
 - v. The Member 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 College’s Standards of Practice;
 - 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 Ontario Regulation 223/08, subsection 2(10); and/or
 - d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to the allegations in the 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, which read as follows.

The Member

1. The Member has had a certificate of registration with the College for approximately 3.5 years. She remains 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 Program in Richmond Hill, Ontario. The Program operates on the premises of Oak Ridges Public School (the "**School**").

Overview

3. The Member began her employment at the Program two weeks prior to the incident described below. As part of the training, the Member was instructed to maintain her small group of up to 13 kindergarten-aged children during the afternoons and not to combine her group with other groups of children.
4. C.V. (RECE), who was considered a senior staff member at the Program, was responsible for supervising another group of kindergarten aged children.
5. Despite the Member's training, on September 7, 2016, C.V. told the Member to combine the groups of kindergarten children. The Member followed the process suggested by C.V., and combined their two groups of children.
6. The following day, on September 8, 2016, based on C.V.'s advice, the Member once again combined the groups.
7. At 3:30pm, the Member and C.V. conducted a headcount of their combined group of children. Together they were responsible for 18 children, who were all present at the time of this headcount.
8. Shortly after that, N.K., a five year-old boy (the "**Child**"), left the room unsupervised through the doors leading to the Program's playground. The Child walked through the

Program's playground and crossed a school bus lane. He then crossed a busy residential street.

9. A passerby found the Child across the street from the School. The Child was crying hysterically. The passerby returned the Child to the School. The School's Vice Principal identified the Child with the assistance of other staff from the Program.
10. A few minutes after 3:45pm, approximately 15 minutes after the last headcount, the Child was returned to the room where the Member and C.V. were supervising the combined group of children.
11. The Member did not notice that the Child was missing. She was not aware that the Child had left the room until he was returned by the Vice Principal.
12. If the Member were to testify, she would advise the following:
 - a. She was "somewhat reliant" on C.V. to "show her around" and provide guidance on how "the Program worked in practice".
 - b. She and C.V. were "shocked" when they heard that the Child was missing.
 - c. After the incident the Program installed chimes on the classroom doors, which make a sound when the door is pushed open.

Admissions of Professional Misconduct

13. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 11 above, and 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 maintain a safe and healthy learning environment, contrary to Standard III.A.1 of the College's Standards of Practice;
 - ii. She failed to know, understand and abide by the legislation, policies and procedures that were 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;
 - iii. She failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Standard IV.B.3 of the College's Standards of Practice;
 - iv. She failed to work collaboratively with colleagues in her workplace in order to provide safe, secure, healthy and inviting environments for children and

families, and/or failed to build effective relationships with colleagues and other professionals by using clear verbal and written communication, contrary to Standard IV.C.1 of the College's Standards of Practice; and/or

- v. 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 College's Standards of Practice;
- 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); and/or
- d) She acted 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 all acts of professional misconduct as alleged in the Notice of Hearing.

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.

Allegations contained in paragraphs two through five in the Notice of Hearing are supported by paragraphs six through twelve in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice when she placed the safety of a child at risk by failing to ensure proper supervision.

The Panel 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 legislation, policies and procedures that were relevant to the professional practice and to the care and learning of children under professional supervision. This was also conduct unbecoming.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and Counsel for the Member made a joint submission as to an appropriate penalty. 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 5 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 Registered Early Childhood Educator ("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 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 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.

Requiring the Member to pay the College's costs fixed in the amount of \$1000, to be paid on the date of this Order.

PENALTY SUBMISSIONS

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon. 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 issues regarding inadequate supervision by RECEs have been increasing. Counsel further submitted that the proposed penalty was proportionate to the misconduct and was consistent with penalties in analogous cases. In this regard, College Counsel provided two other cases from this College in support of the proposed penalty: *College of Early Childhood Educators v. Walzack* (2018) and *the College of Early Childhood Educators v. Walton*, (2019) (unreported).

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

- The Member acknowledged the wrongdoing and cooperated with the College..
- The Member pled guilty and agreed to a joint submission.
- The Member has been registered with the College for over 3 years and has no prior discipline history.

The prime aggravating factors in this case were:

- The age of the Child.
- The Child was able to leave the room, and the premises.
- There was an increased risk of harm, as the Child crossed a bus lane and busy residential street.
- When found, the Child was crying hysterically, indicating this incident had an emotional impact on him.
- The Member did not realize that the Child was missing.
- The Child was missing for a significant amount of time (up to 15 minutes).
- The Member failed to adhere to Centre policies regarding the combining of groups. Had proper procedures been followed, the incident may have been prevented.

In addition, two factors were noted as constituting important considerations:

- The child was not injured.
- This is an isolated incident, not reflecting a pattern of behaviour.

PENALTY DECISION

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

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 5 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 Registered Early Childhood Educator ("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 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 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.

Requiring the Member to pay the College's costs fixed in the amount of \$1000, 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. 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.

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. The proposed suspension is in keeping with the range of suspensions that were imposed in the previous cases that were put before the Panel. This suspension is appropriate given the aggravating and mitigating 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 requirement for mentorship will help to protect the public, and support the rehabilitation of the Member.

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 to be paid on the date of this Order.

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



Barbara Brown, RECE Chairperson

June 25, 2019

Date