

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Alexandra Lynn Simonetta this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of, or any information that could identify, any person who is under 18 years old and is a witness in the hearing, or the subject of evidence in the hearing or under subsection 35.1(3) of the *Early Childhood Educators Act, 2007*.

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

PANEL: Garry Bates, Chairperson
Millie Forbes, RECE
Lois Mahon, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
ALEXANDRA LYNN SIMONETTA)	Catherine Fan,
REGISTRATION # 58211)	Paliare Roland Rosenberg Rothstein LLP
)	For the Member
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	
)	Heard: February 9, 2022

DECISION AND REASONS

This matter was heard by a panel of the Discipline Committee (the “Panel”) of the College of Early Childhood Educators (the “College”) on February 9, 2022. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (the “Act”), *the Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the College’s Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee.

At the outset, the Panel noted that the hearing was being recorded in the Zoom platform at the direction of the Panel for the hearing record, and ordered that no person shall make any audio or video recording of these proceedings by any other means.

PUBLICATION BAN

The Panel ordered a publication ban following a motion by College counsel, on consent of the Member, pursuant to section 35.1(3) of the Act. The order bans the public disclosure, publication and broadcasting outside of the hearing room, any names or identifying information of any minor children who may be the subject of evidence in the hearing.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing dated January 4, 2022, (Exhibit 1) which provided as follows:

1. At all material times, Alexandra Lynn Simonetta (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at the Bolton St. John the Baptist YMCA, located in Bolton, Ontario (the “Centre”). The Centre is located on the premises of St. John the Baptist Elementary School (the “School”).
2. On or about September 27, 2018 the Member was responsible for supervising a group of 9 school aged children at the Centre’s after school program, including an 8 year old child (the “Child”). At approximately 3:15 p.m., the Member met the group in the School’s hallway,

conducted a headcount and verified that all the children were present. The Member then brought the children outside, without noticing that the Child left the Centre, alone and unsupervised.

3. The Child walked home, alone and unsupervised, a distance of approximately 850 metres. To get home, the Child had to cross a number of streets. When the Child arrived home, there was no one inside and it was locked. The Child became scared and began walking back towards the School.
4. Sometime between approximately 3:20 p.m. and 3:30 p.m., the Member counted the children again and realized that the Child was missing. She began searching for the Child, but was unable to locate the Child. Despite not knowing the Child's whereabouts, at approximately 3:35 p.m., the Member checked the Child out on the group's attendance form.
5. A neighbour observed the Child alone, at a neighborhood park adjacent to the School, and notified the Child's mother. The neighbour brought the Child back to the Centre at approximately 4 p.m.
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 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 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;
 - 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 College's Standards of Practice;
 - 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 College's Standards of Practice;

- iv. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
- 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);
- d) The Member signed or issued, in her professional capacity, a document she knew or ought to have known contained false, improper, or misleading statements, contrary to Ontario Regulation 223/08, subsection 2(16); and/or
- e) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

WITHDRAWAL OF ALLEGATIONS

The College requested permission to withdraw allegation 6(d) in the Notice of Hearing as outlined above. The Member consented to the withdrawal of this allegation. On this basis, the Panel withdrew allegation 6(d) from the Notice of Hearing and the hearing proceeded on the basis of the remaining allegations in the Notice of Hearing.

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:

1. The Member has held a certificate of registration with the College since February 2016. She is in good standing with the College and does not have a prior discipline history with the College.
2. At all material times, the Member was employed as a Registered Early Childhood Educator (“RECE”) at the Centre. The Centre is located on the premises of the School.
3. On September 27, 2018, the Member was responsible for supervising a group of 9 school aged children at the Centre’s after school program, including the Child.
4. At approximately 3:15 p.m., the Member met the group in the School’s hallway, conducted a headcount and verified that all the children, including the Child, were present. The Member then brought the children from the Program outside to the School playground/tarmac area. This occurred at the same time as hundreds of other children attending the School were being dismissed.
5. Sometime between approximately 3:20 p.m. and 3:30 p.m., the Member counted the children again and realized that the Child was missing. She “felt panic” and began searching for the Child, but was unable to locate the Child.
6. The Member had not noticed that at some time between the headcount conducted at 3:15 p.m. and her next headcount between 3:20 p.m. and 3:30 p.m., the Child had left the Centre, alone and unsupervised.
7. After leaving the Centre, the Child walked home, alone and unsupervised, a distance of approximately 850 metres. To get home, the Child had to cross a number of streets. When the Child arrived home, there was no one inside and it was locked. The Child became scared and began walking back towards the School.
8. A neighbour, who was a friend of the Child’s family, and known to the Child, observed the Child alone, at a neighborhood park adjacent to the School at approximately 3:45 p.m., and notified the Child’s mother. The Child’s mother in turn notified the School’s Secretary that the Child had been found. The neighbour brought the Child back to the Centre unharmed at approximately 4:00 p.m.

Additional Information

9. At the time, the Centre's practice was to bring the Program's children outside at the same time as the children attending the School were being dismissed, and exiting the school. Prior to the Incident, the Member had expressed concern that this practice made it challenging to properly supervise the children in the Program.
10. The Centre's practices changed as a result of the incident. The children attending the Program no longer go outside right after the school day ends, while the area around the School is busy with other children and adults. Instead, the children first have a snack inside the Centre and then go outside.
11. The Member fully cooperated with the Centre's investigation of the incident as well as the College's investigation.
12. The Member's employment at the Centre was terminated as a result of the incident.
13. The incident did not have a long-lasting emotional impact on the Child.
14. If the Member were to testify, she would advise that the incident was a life changing experience and she takes full responsibility for what had happened. She is thankful that the Child was unharmed in this incident.

Admissions of Professional Misconduct

15. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 8 above, and as defined in subsection 33(2) of 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 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;

- 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 College's Standards of Practice;
 - 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 College's Standards of Practice;
 - iv. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
- 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);
- 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 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

College Counsel

College counsel submitted that the facts set out in the Agreed Statement of Facts would support findings of misconduct. She further submitted that the Member failed to adequately supervise a child under her care by failing to provide a safe environment. The conduct exposed the Child to a risk of physical harm because the Child was unsupervised for an extended period of time and walked a significant distance away from the Centre. The key failure was that the Member did not observe and monitor the learning environment. This was a serious disregard of the Member's professional obligations.

Counsel for the Member

Counsel for the Member stated that she supported the information as set forth in the Agreed Statement of Facts.

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admission and found her guilty of professional misconduct as alleged in the Agreed Statement of Facts and the Notice of Hearing

The allegations of professional misconduct set out in paragraph 6 of the Notice of Hearing, with the exception of section 6 d) which was withdrawn, were all supported by the admissions of professional misconduct set out in paragraph 15 of the Agreed Statement of Facts. The evidence established that the Member engaged in professional misconduct in that she failed to provide adequate supervision to a child under her care. The Member took a head count of the group of 9 children in the school hallway and then brought them out to the playground. She did another headcount somewhere between 5 and 15 minutes later and realized there was a child missing. The Member had not noticed that at some time between the headcount conducted at 3:15 p.m., and her next headcount, the Child had left the Centre, alone and unsupervised. She felt panicked and started

searching for the Child but was unable to locate them. She failed to meet the standards of the profession contrary to section 33(2) of the Act in that she failed to adequately supervise a child under her professional supervision. Additionally, she failed to observe and monitor the learning environment to protect children from harmful or unsafe situations, and to provide safe and appropriate supervision in accordance with Standard III.C.2 and Standard III.C.5 respectively of the College's Standards of Practice. Further, the Member failed to implement strategies to ensure safe transitions while maintaining supervision at all times, contrary to Standard III.C.8 of the College's Standards of Practice.

The Panel appreciates that while the employer policies and procedures in place were not adequate and even though the Member had informed the employer of the challenging circumstances around transition of children, the Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care of children contrary to Standard IV.B.1 of the Colleges Standards of Practice. The Panel recognizes that when the Member realized her error, she did take appropriate action. Nonetheless, by her actions outlined above, the Member failed to model professional behaviour and to understand that her conduct reflects on her and on her profession at all times, contrary to Standard IV.4.

The Member's actions could reasonably be regarded by members as unprofessional contrary to Ontario Regulation 223/08 subsection 2(10). The Member's actions were also clearly unbecoming an RECE contrary to Ontario Regulation 223/08 subsection 2(22).

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and Counsel for the Member made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"). The parties submitted that the Panel should make an order as follows:

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of 6 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, once the suspension in section 2 above ends, 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. 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. The Member is required to pay the College's costs fixed in the amount of \$1,000.00, to be paid within 5 months of the date of this Order and in accordance with the following payment schedule:
- a. \$200 thirty (30) days following the date of the Order;
 - b. \$200 sixty (60) days following the date of the Order;
 - c. \$200 ninety (90) days following the date of the Order;
 - d. \$200 one hundred and twenty (120) days following the date of the Order; and
 - e. \$200 one hundred and fifty (150) days following the date of the Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted that there were five aggravating and three mitigating factors. The aggravating factors were:

1. The length of time the Child was missing, estimated to be between 30 and 40 minutes;
2. The fact that the Child walked a lengthy distance from the School to their home;
3. The Child was exposed to road related risks in that they had to cross a number of streets;
4. The emotional impact on the Child during the incident – specifically, the Child was scared when no one was at their house; and
5. The Child was located by a member of the Public.

The mitigating factors were:

1. The Member acknowledged her wrong-doing, had insight into her conduct, fully accepted responsibility, and cooperated with the College;
2. The Member plead guilty in the ASF, saving the College time and resources; and
3. This was the Member's first time before the Discipline Committee.

College counsel also presented a number of additional factors that she submitted were neither aggravating nor mitigating. She noted that the Child was 8 years old, there were no weather-related risks with the incident and ultimately, the Child was not physically harmed and experienced no long-term impact. Counsel noted that this was an isolated incident for the Member, who upon realizing the Child was missing took a headcount, began a search and notified the supervisor immediately. The Member had also voiced concern about the Centre's practices of transitioning at the same time as all other students were released from school. After the incident, this practice was modified by the Centre. College counsel submitted that any penalty ordered should include remediation and the Proposed Order addressed that. Counsel also noted that the penalty should be proportional to similar cases. College counsel presented the following cases to demonstrate the proportionality of the Proposed Order: *College of Early Childhood Educators vs Virginia Wai-Yee Me*, 2019 ONCECE 8 (CanLII), *College of Early Childhood Educators vs Kimberly Colleen Selkirk Anderson*, 2020 ONCECE 18 (CanLII), and *College of Early Childhood Educators vs Zachary Solomon Yudin*, 2020 ONCECE 13 (CanLII).

Counsel noted that all of these cases involved a lost child for an extended period of time. The length of suspension in these cases varied from five to seven months.

Submissions of the Member on Penalty and Costs

Counsel for the Member stated that the Panel should consider the following mitigating factors: At the time of the incident, the Member had less than two years' experience and had no previous record. Additionally, the circumstances were very challenging with several groups of children transitioning at the same time. Counsel submitted that this case could be distinguished from other cases because the Member did take regular head counts. The Member also took immediate steps when she discovered the Child was missing and the Child suffered no emotional impact.

Reply by College Counsel to Submission by the Member

College counsel stated that experience is not recognized as a mitigating factor as all RECEs must know what their obligations are relative to the standards of practice. When an RECE is aware of danger, their obligation is enhanced and not minimized.

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 a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of 6 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 an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member, at her own expense, will arrange a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
 - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,

- v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
- vi. is pre-approved by the Director. In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, once the suspension in section 2 above ends, 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. 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.

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.

A reprimand to the Member provides the Panel with the opportunity to express disapproval of the Member's conduct and reinforce the messages it wishes to convey through the penalty. Moreover, by recording the fact of the reprimand on the public register, the public is assured that the Panel recognizes the seriousness of the Member's actions and responds to acts of professional misconduct fairly and transparently.

Suspension of the Member's certificate of registration is appropriate in this matter, given her failure to meet the legislative and College standards. The suspension holds the Member accountable for her actions and communicates to her the severity of her misconduct. While the suspension demonstrates the Panel's disapproval of the Member's conduct, it is not intended to be solely punitive. Her suspension provides the Member with an opportunity to learn from her mistakes, reflect on her conduct and refocus on her professional responsibilities.

A mentorship program provides the Member with an opportunity to be directly involved in her own personal rehabilitation. It provides the Member with the opportunity to learn better how to meet the standards expected of an RECE while working directly with an appropriate role model. It also provides a level of supervision.

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

ORDER AS TO COSTS

Subsection 33(5)(4) of the Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that this is an appropriate case for costs to be awarded and the amount proposed by the parties is reasonable.

The Panel orders that the Member pay the College its costs, fixed in the amount of \$1,000 to be paid in accordance with the Joint Agreement on Penalty and Costs.

I, **Garry Bates**, sign this decision and reasons for the decision as **Chairperson** of this **Discipline panel** and on behalf of the members of the **Discipline panel**.

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

Garry Bates, Chairperson

February 23, 2022

Date