

**NOTICE OF PUBLICATION BAN**

In the matter of College of Early Childhood Educators and Asha Abdullahi Elmi 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:** Yalin Gorica , RECE, Chairperson  
Adesua Ezeokafor  
Nicole Gouveia-Martinez, RECE

<b>BETWEEN:</b>	)	
	)	
COLLEGE OF EARLY	)	Vered Beylin
CHILDHOOD EDUCATORS	)	For the College of Early Childhood Educators
	)	
and	)	
	)	
ASHA ABDULLAHI ELMI	)	Self-represented
REGISTRATION # 50038	)	
	)	
	)	Elyse Sunshine,
	)	Rosen, Sunshine LLP
	)	Independent Legal Counsel
	)	
	)	
	)	Heard: July 11, 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 July 11, 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 *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 were contained in the Notice of Hearing dated June 17, 2022, (Exhibit 1) which provided as follows:

1. At all material times, Asha Abdullahi Elmi (the “Member”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“ECE”) at Charles Hulse Child Care Centre, in Ottawa, Ontario (the “Centre”).
2. On or about September 11, 2019, the Member was responsible for supervising a group of preschool-aged children in a forested area near the Centre. The Member did not conduct a headcount or an attendance check before moving from one area of the forest to another, and failed to notice that two children, (“Child 1”) and (“Child 2”), (collectively, the “Children”) left the

area, alone and unsupervised. The Member first noticed that Child 1 was missing. Then, a few minutes later, during the search for Child 1, the Member became aware of Child 2's absence.

3. The Children walked through the forested area and exited it near a four-lane roadway. Child 2 went onto the road and three members of the public rushed to assist him, while cars drove by.
4. The Centre's management was notified of the Children's absence and several staff members began searching for them. In total, the Children were missing for approximately 15-20 minutes, until they were located by the Centre's staff.
5. By engaging in the conduct set out in paragraphs 2 – 4 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act, in that:
  - a) The Member failed to supervise adequately a person who was under 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 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;
    - iv. 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); and/or
- d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

## **EVIDENCE**

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

### **The Member**

1. The Member has held a certificate of registration with the College for approximately 8 years. 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 an ECE at the Centre.

### **The Incident**

3. On September 11, 2019, the Member was responsible for supervising a group of preschool-aged children in a forested area near the Centre. The Member did not conduct a headcount or an attendance check before moving from one area of the forest to another, and failed to notice that two children, Child 1 and Child 2, left the area, alone and unsupervised. The Member first noticed that Child 1 was missing. Then, a few minutes later, during the search for Child 1, another staff member alerted the Member to Child 2's absence.
4. The Children walked through the forested area and exited it near a four-lane roadway. Child 2 ran onto the road and three members of the public rushed to "grab him from oncoming traffic."
5. The Centre's management was notified of the Children's absence and several staff members began searching for them. In total, the Children were missing for approximately 15-20 minutes, until they were located by the Centre's staff.

### **Additional Information**

6. Following the Incident, the Centre's management put the Member on a Performance Improvement Plan and provided her with ongoing coaching and mentoring. The Centre's Director advised that the Member "progressed well" as a "reliable educator".
7. If the Member were to testify, she would advise the following:
  - a. She takes responsibility for the part she played in the Incident.
  - b. The Incident was a learning opportunity for her, and she has since enhanced her supervision strategies.

### **Admissions of Professional Misconduct**

8. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 5 above, and as defined in subsection 33(2) of the Act in that:
  - a. The Member failed to supervise adequately a person who was under 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 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;
    - iv. 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); 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 Agreed Statement of Facts.

The Panel received a written plea inquiry (Exhibit 4) which was signed by the Member. The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

### **SUBMISSIONS OF THE PARTIES ON LIABILITY**

The College submitted that all the allegations set out in the Notice of Hearing were admitted to by the Member and were supported by the evidence. The College submitted further that the evidence for the allegations consisted of the Agreed Statement of Facts (Exhibit 2) which contained the facts which established each of the allegations.

College counsel submitted that the Member was responsible for supervising a group of preschool children and failed to perform a headcount or an attendance check, as a result, she failed to notice that two of the children were left alone and unsupervised in the forested area near the Centre. The children were unsupervised for a significant period of time before the Member noticed one child missing and was then alerted by another staff that the second child was also missing. The Children exited the forest near a four-lane roadway and one of the children ran onto the road where three members of the public rushed to stop them from going into the traffic. The management of the Centre was notified and several staff members began searching for them as well. The Children were missing for approximately 15-20 minutes when they were located by Centre staff.

The College submitted that the Member failed to adequately supervise two preschool children and to provide the children under her care with a safe environment and exposed the children to potential harm. Through her conduct, the Member failed to act as a role model for her colleagues. Her conduct reflects negatively on her profession and was unbecoming of a Member of the College.

The Member did not make any submissions.

## **FINDINGS AND REASONS FOR DECISION**

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

The Panel found that the allegations of misconduct contained in the Notice of Hearing are supported by the facts set out in the Agreed Statement of Facts. The evidence shows that the Member contravened the standards of practice as she failed to adequately supervise a group of preschool children and conduct a headcount or an attendance check when moving from one area to another in the forested area. Her action resulted in two children being separated from the group, and remaining unsupervised for 15-20 minutes. During that time, the children walked a significant distance and were exposed to severe risk when they exited the forest near a 4-lane roadway. One of the children tried to run onto the roadway and was stopped by members of the public. The Member only noticed that one child was missing and was notified by another staff member that the second child was missing.

The Member contravened the standards of practice when she neglected to properly follow established policies and procedures for transitions. The Member also failed to comply with the policies and procedures that are relevant to her professional practice and to the care and education of children. By engaging in such conduct, the Member admitted, and the Panel finds, that the Member's conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional, and unbecoming of a member.

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

### **Mentorship**

- a. Prior to the Member commencing or resuming employment as a 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 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. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, within 30 days of the date of this Order.

### **Submissions of the College on Penalty and Costs**

Counsel for the College submitted that failing to supervise children is the most common type of misconduct brought before the Discipline Committee and this case is similar to other cases which have been before the Committee. College counsel submitted that the Proposed Order met the principles that a penalty order was required to meet, in that it would send a message broadly to members of the profession and the public that the conduct at issue is unacceptable and will not be tolerated by the College. The Proposed Order would also deter other members from engaging in this kind of conduct and it would deter the Member from engaging in misconduct in the future.

Counsel also submitted that the Proposed Order, which contains an extensive mentorship program, would help to rehabilitate and support the Member in her return to practice.

College counsel also submitted that the penalty must take into account the aggravating and mitigating factors in this case, and presented the following factors for the Panel's consideration:

#### Aggravating factors

1. The Member's failure to supervise involved two children
2. The age of the children is considered young and vulnerable (preschool age)
3. The length of time the children were unsupervised was approximately 15-20 minutes
4. The children walked a significant distance away from the group in a forested area until they were located by the Centre staff
5. The children were exposed to significant road-related traffic risk, specifically one child tried to run onto the road and was stopped by 3 members of the public
6. The Member only noticed one child was missing initially, and had to be informed by another staff member that the second child was missing.

#### Mitigating factors

1. The Member acknowledged her wrongdoing and took responsibility, and fully cooperated with the Centre and the College.
2. The Member pleaded guilty and saved the College time and resources.
3. The Member was registered as an RECE for 8 years with no previous discipline history.
4. The Member worked hard on improving her supervision skills by voluntarily engaging in coaching and mentoring.

College counsel also submitted three additional factors for the Panel to consider:

1. The children were not physically injured or harmed as a result of the incident.
2. There is no evidence to suggest that the children had experienced any long-lasting emotional impact from the incident.
3. This was an isolated incident and there was no prior concern of this nature for the Member.

Counsel for the College submitted that the Proposed Order was also consistent with the range of penalties given in similar cases and provided two cases for the Panel's consideration:

1. *College of Early Childhood Educators v Ban Al Azawi*, 2021 ONCECE 9
2. *College of Early Childhood Educators v Mvidi Helene Batulapuka*, 2021 ONCECE 7

Counsel submitted that these cases represented conduct of a similar nature and established that the Proposed Order was reasonable and would not bring the administration of justice into disrepute.

### **Submissions of the Member on Penalty and Costs**

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

### **PENALTY DECISION**

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

1. The Member is required to appear before the Panel to be reprimanded immediately following the hearing of this Order.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of 7 months. The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.
3. 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 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. It is the Panel's conclusion that the penalty proposed was appropriate and reasonable in light of all objectives agreed upon and the Panel accepted the joint submission.

The Panel is aware that no 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 by the College, each of which involved similar facts to those of this case and a similar penalty to that proposed. The Panel took note that the Member failed to supervise the group of preschool children appropriately which resulted in two children being separated from the group for an extended period and subsequently exposed to road-related traffic risks. Had the member properly followed the policies and procedures to conduct headcounts, the incident could have been prevented. The Panel was especially concerned that one of the children tried to run into the traffic on the roadway and was stopped by members of the public.

The Panel found that the proposed suspension is generally consistent with the range of suspensions that were imposed in the previous cases. This suspension is appropriate, given the aggravating factors in this case. The suspension, along with the reprimand, will act as a specific deterrent to the Member, and a general deterrent to other members of the profession, from engaging in such conduct. The terms, conditions and limitations imposed will help to protect the public. The Member will also be rehabilitated through the mentoring sessions when returning to practice in the future.

The Panel also considered that the Member cooperated with the College and, by agreeing to the facts and Proposed Order, has accepted responsibility for the misconduct. Furthermore, the Panel noted that the Member had taken full responsibility for her conduct and had worked hard on improving her supervision practice by engaging in coaching and mentoring voluntarily after the

incident. Having considered all these factors, the Panel is satisfied that the Proposed Order 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 within 30 days of the Order.

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



Yalin Gorica, RECE, Chairperson

July 28, 2022

Date