

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Kayla Jane King 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
Richard Fillion
Dana Sharkey, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
KAYLA JANE KING)	Self-represented,
REGISTRATION # 51244)	
)	
)	
)	Lonny Rosen,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: July 20, 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 20, 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, of 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 July 5, 2022, (Exhibit 1) which provided as follows:

1. At all material times, Kayla Jane King (the “Member”) was a member of the College of Early Childhood Educators and was employed as a designated Early Childhood Educator (“ECE”) at LoveView Early Learning, in Richmond Hill, Ontario (the “Centre”).
2. On or about the morning of October 23, 2019, the Member and A.Y-F. (collectively, the “Staff”) were responsible for supervising a group of preschool-aged children at the Centre’s fenced playground. Shortly before 10 a.m., A.Y-F. brought some of the children back into the Centre. The Member failed to conduct a headcount, verify attendance or do a physical walk around the playground to ensure all the children were present prior to bringing the rest of the group into the

Centre. As a result, a 2 year and 9 months old child (the “Child”) remained on the playground, alone and unsupervised.

3. Approximately 21 minutes later, a staff member who brought another group of children outside found the Child cold and sad. The Member did not notice that the Child was missing until she was brought back into the Centre.
4. By engaging in the conduct set out in paragraphs 2 – 3 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 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;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 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 all of the allegations of professional misconduct.

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.

EVIDENCE

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

The Member

1. The Member has had 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 RECE at the Centre.

The Incident

3. On the morning of October 23, 2019, the Member and A.Y-F. (collectively, the "Staff") were responsible for supervising a group of preschool-aged children at the Centre's fenced playground. At approximately 9:50 a.m., the Member used her personal cellphone and exchanged text messages for a few minutes. She then excitedly told A.Y-F. that she got a job offer with another employer and suggested to bring the children inside so that she could call the prospective employer.

4. A.Y-F. brought some of the children back into the Centre. The Member failed to line the children up and conduct a headcount, while cross referencing the attendance sheet, as was required by the Centre's Playground Safety Policy (the "Playground Policy"). The Member also failed to do a physical walk around the playground to ensure no child was left behind, prior to bringing the rest of the group into the Centre's building at 9:58 a.m.
5. The Member also failed to conduct a second headcount before bringing the children into the preschool classroom, in contravention of the Playground Policy.
6. As a result of the Member's actions, the Child remained on the playground, alone and unsupervised.
7. While the Child was alone on the playground, she was crying and had urinated in her pants. At 10:19 a.m., the Child was found by a staff member who brought another group of children outside. The Child was sad. She was shivering and told the staff she was cold. The Member did not notice that the Child was missing for approximately 21 minutes, until she was brought back into the Centre.

Additional Information

8. The Children's Aid Society ("CAS") conducted an investigation of the Incident and verified that the Member inadequately supervised a child resulting in risk that the child is likely to be harmed and/or distress to the child.
9. The Member submitted a resignation letter to the Centre, a week prior to the Incident, giving a two week notice to the Centre. However, as a result of the Incident, the Centre terminated the Member's employment on the day of the Incident.
10. The Centre's Use of Cell Phone's policy prohibited staff from using their personal cell phones in the Centre's hallways, classrooms or playground.
11. On three prior occasions, two of them in the week leading up to the Incident, the Centre's Supervisor verbally warned the Member in relation to her supervision practices. This included a reminder of the importance of adhering to the Playground Policy and avoiding use of cell phone on the playground, two days prior to the Incident.

12. If the Member were to testify, she would advise that she feels horrible about the Incident and that it was an error in judgment on her part.

Admissions of Professional Misconduct

13. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 7 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. 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;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 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).

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 & 2A) which contained the facts which established each of the allegations of misconduct.

The College submitted that the Member was responsible for supervising a group of preschool children in the playground, and while supervising the children, the Member used her cell phone for a few minutes, before bringing the children inside. Upon re-entry to the Centre, the Member failed to do a head count, or cross reference the attendance list, as was required by the Centre's Playground Safety Policy, to ensure all children were present. She also failed to do a second head count when inside the building. As a result of the Member's actions, a 2 year, 9 month old child remained on the playground, alone and unsupervised. The Child was found approximately 21 minutes later when a staff member brought another group of children outside. The Child was shivering and had wet herself, and told the staff she was sad and cold. The Member did not notice the Child was missing until the Child was brought inside. The Children's Aid Society ("CAS") conducted an investigation of the Incident and verified that the Member inadequately supervised a child resulting in risk that the child was likely to be harmed and/or to experience distress. Prior to the incident, the Member had been warned three times, about her supervision practices, and had been reminded to adhere to the Centre's Cell Phone Use Policy, which prohibits staff from using their personal cell phone in the Centre's hallways, classrooms or playground.

The College further submitted that the Member's actions support findings of professional misconduct. The Member failed to adequately supervise a group of children, which contradicts the College's standards of practice. The Member failed to provide the children under her care with a

safe environment by failing to properly monitor the outside area. The Member failed to be a role model to her colleagues.

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 Agreed Statement of Facts and the Notice of Hearing.

The Panel understands that failing to properly supervise children is the most common type of complaint brought against RECEs and the type of misconduct that is most frequently brought before the Discipline Committee. The Panel found that by failing to properly supervise the children in her care, the Member contravened the standards of practice by failing to observe and monitor the learning environment. This resulted in a preschool child remaining unsupervised in the Centre's playground for 21 minutes. The Member failed to provide safe and appropriate supervision of children by using her personal cell phone while in program. The Member also failed to follow established policies and procedures for transition, when she failed to conduct multiple headcounts and failed to collaborate with colleagues, as required, when exiting playgrounds and re-entering buildings. In this regard, the Member breached several of the College's Standards of Practice, including: Standard III.C.2, by failing to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations; Standard III.C.5, by failing to provide safe and appropriate supervision of children based on age, development and environment; Standard IV.B.1, by failing to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children; Standard IV.C.4, by failing 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; and Standard IV.C.6, by failing to support and collaborate with colleagues.

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 as conduct unbecoming a RECE.

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 *Early Childhood Educators Act, 2007*, 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 7 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 60 days of the date of this Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted that the Proposed Order was appropriate and reasonable in light of the facts agreed upon. College counsel submitted that the penalty and costs order set out in the Joint Submission on Penalty and Costs 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 to the public that the conduct at issue is unacceptable and will not be tolerated by the College. The proposed penalty would also deter other members from engaging in this 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 program of mentorship, 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 six aggravating factors for the Panel's consideration:

1. The age of the child who was left alone was a preschooler (2 years and 9 months old);
2. The length of time for which the Child was unsupervised (21 minutes);
3. The Member did not realize the Child was missing until it was brought to her attention;
4. The Member failed to take specific measures to follow policies and procedures. She was using her cell phone and failed to conduct headcounts;
5. The Child was emotionally and physically impacted by this incident; and
6. There were prior concerns with the Member's supervision practices, specifically regarding her use of cell phone and adhering to playground policy.

The mitigating factors in this case were that:

1. The Member pled guilty and agreed to a joint submission, which saved the College time and money in this case;
2. The Member cooperated with the College, expressed remorse and admitted her wrongdoing; and
3. The Member has been an RECE for 8 years and had a clean record before the incident.

The College also submitted three additional factors for the Panel to consider which were not mitigating and were not aggravating:

1. The Child was not physically injured;
2. There was no evidence of long-lasting impact on the Child; and
3. This was an isolated incident.

Counsel for the College provided three cases in support of the Proposed Order and submitted that these cases represented conduct of a similar nature and established that the Proposed Order was reasonable and that accepting the parties' joint submission as to penalty would not bring the administration of justice into disrepute.

1. *College of Early Childhood Educators v Ban Al Azawi*, 2021 ONCECE 9
2. *College of Early Childhood Educators vs Rebecca Ann Wardaugh*, 2019 ONCECE 19
3. *College of Early Childhood Educators v Mvidi Helene Batulapuka*, 2021 ONCECE 7

Submissions of the Member on Penalty and Costs

The Member did not make a submission 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 a Registered Early Childhood Educator ("RECE") or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007*, 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 7 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 contrary to the public interest because the proposed penalty is so “unhinged” from the circumstances of the case that it must be rejected.

It is the Panel’s conclusion that the Proposed Order met these objectives outlined above. Accordingly, the Panel accepted the joint submission.

The Panel is aware that no two cases are exactly alike. However, reviewing the earlier cases that were presented by the College demonstrated a range of penalty orders for similar conduct, which supported the submission that the Proposed Order was appropriate. The Panel took note that the Member failed to realize that the preschool child was not accounted for, for a lengthy period of time (approximately 21 minutes) and despite prior warnings, the Member continued to use her personal cell phone while supervising children in the program. Had the Member taken appropriate action and followed policies and procedures, the incident could have been prevented. The Panel was also concerned that the Child, who was left alone in the playground, was crying and had wet herself before she was found. The Panel considered that the Member cooperated with the College and, by agreeing to the facts and proposed penalty, has accepted responsibility for the misconduct. Having considered all of these factors, the Panel was satisfied that the proposed penalty in this case is appropriate and in the public interest.

The Panel agrees that the suspension is appropriate and generally consistent with the range of suspensions that were imposed in the previous cases that were put before the Panel. 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.


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 60 days of the date 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

August 9, 2022
Date