

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Natalia Catalina Gomez, 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: Geneviève Breton, Chairperson
Lois Mahon, RECE
Stacee Stevenson, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Matthew Paik
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
NATALIA CATALINA GOMEZ)	Self-represented
REGISTRATION # 51818)	
)	
)	
)	
)	Lonny Rosen, Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: October 17, 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 October 17, 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 September 16, 2022 (Exhibit 1), which provided as follows:

1. At all material times, Natalia Catalina Gomez (the “Member”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“ECE”) at the Waldorf Academy Childcare Centre, in Toronto, Ontario (the “Centre”).
2. On or about September 21, 2020, the Member and C.C., an educational assistant (the “EA”) (collectively the “Staff”) were supervising a group of 7 toddlers inside the Centre, including a 21-month-old boy (the “Child”). Shortly after 9:27 a.m., the Member went to prepare snacks in the kitchen located at the other end of the building and the EA began changing a child’s diaper in the washroom.

3. At approximately 9:35 a.m., the Child, who was having his first day at the Centre, cried, and left the Centre unnoticed by the Staff. Approximately 6 minutes later, the mother of another child at the Centre found the Child on Spadina Road. The EA noticed that the Child was missing only briefly before he was brought back to 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; and/or
 - 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).

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 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 September 21, 2020, the Member and the EA (collectively the "Staff") were supervising a group of 7 toddlers inside the Centre, including the Child. It was the Child's first day at the Centre, and he was crying after his parents dropped him off at 9:20 a.m.
4. Shortly after 9:27 a.m., the Member went to prepare snacks in the kitchen located at the other end of the building, and the EA began changing another child's diaper in the washroom. While the Member was in the kitchen, she "was constantly peaking"[sic] towards the toddler room "to make sure the children were doing well". At approximately 9:35 a.m., the Child walked through several sets of doors and a porch gate which were not locked at the time, and left the Centre unnoticed by the Staff.
5. Approximately 6 minutes later, the mother of another child at the Centre found the Child "on Spadina Road". The mother was "shaken up" as a result of finding the Child alone on the street and was "upset and crying" when she brought him back to the Centre. The EA noticed that the Child was missing only briefly before the Child was brought back to the Centre.

Additional Information

6. At the time of the incident, the Centre's policy prohibited locking the Centre's doors for safety reasons. Immediately following the incident, the Centre implemented several changes, including the following:
 - a. Porch gates were made child- and fire-exit safe. As a result, the porch gates were to be locked at all times.
 - b. Doorbells were installed on top of the Centre's inner and outer exit doors.
7. On one prior occasion, approximately 14 months prior to the incident, the Centre's Supervisor formally addressed the Member's supervision practices with her and reminded her of the importance of ensuring all children were accounted for and supervised at all times.
8. The Member was terminated from her position as an RECE at the Centre as a result of the Incident.
9. If the Member were to testify, she would advise that she feels ashamed about the Incident, and that it had a significant emotional impact on her. Since then, she has worked on improving her supervision practices and communication with colleagues.

Admissions of Professional Misconduct

10. 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 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; and/or
 - 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 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

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 along with an EA was responsible for supervising a group of seven toddlers. She went to the other side of the building to prepare snacks. She knew that the EA had gone to change another toddler's diaper. She was "peeking" over to see if everything was okay, but this constituted a failure to supervise the children.

The Child was 21 months old and it was his first day. The Child walked through several sets of doors and a porch gate which were all unlocked and left the Centre unnoticed by staff. The Child was outside alone for 6 minutes and was found dangerously close to Spadina Avenue by another parent. The EA noticed the Child was missing only minutes before the Child was brought back inside.

The College submitted that the Member failed to adequately supervise the Child and to provide the children under her care with a safe environment and exposed the children to potential harm. She failed to uphold professional standards which could have prevented the incident.

The Member had a prior issue regarding her supervision practices 14 months earlier, which was formerly addressed by her Centre supervisor. At that time, the Member was reminded of the importance of ensuring all children were accounted for and supervised. The Member was aware of the Centre policy of unlocked doors (due to fire safety) and it was obvious that at the time she didn't make it her foremost responsibility to make sure all children were safe. 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 toddlers, and her action resulted in a 21 month old toddler leaving the building and being found near a very busy main artery in Toronto where he remained unsupervised for 6 minutes. During that time, no one knew the Child was missing until he was returned. This lack of supervision could have potentially resulted in much greater consequences.

The Member contravened the standards of practice when she neglected to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations. 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 based on age, development and environment. The member also failed to support and collaborate with her colleague. 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 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 an 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 failing to supervise children is the most common type of misconduct brought before the Discipline Committee and that 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 a 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 young age of the Child: 21 months.
2. The length of time for which the child was unsupervised: 6 minutes, during which the Child was outside near a busy road.
3. The Member had prior supervision issues that had been formerly addressed.

4. The Member was aware that the doors were unlocked per Centre policy but failed to have an adequate supervision plan before she went to prepare snacks

Mitigating factors

1. The Member acknowledged her wrongdoing and took responsibility, and fully cooperated with the College.
2. The Member pleaded guilty and by agreeing to a joint statement, saved the College significant time and resources.
3. The Member was registered as an RECE for 8 years with no prior misconduct
4. The Member has completed additional courses to improve her supervision skills.
5. The Member's new employer stated in a letter (Exhibit 5) that she has demonstrated excellent communication skills with colleagues and that there have not been any incidents indicating her lack of supervision skills.

College counsel also submitted one additional factor for the Panel to consider, that the Child was not physically injured or harmed as a result of the incident. This was not a mitigating factor but was identified as the absence of an aggravating factor.

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

1. *College of Early Childhood Educators v Mvidi Helene Batulapuka*, 2021 ONCECE 7
2. *College of Early Childhood Educators v Asha Abdullahi Elmi*, 2022 ONCECE 7
3. *College of Early Childhood Educators v Ban Al Azawi*, 2021 ONCECE 9

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 submitted a letter from her current employer demonstrating that she had improved her supervision and communication skills. She seemed remorseful and noted the impact this

incident has had on her. The Member is currently receiving counselling to assist her in improving her practice as an ECE and help with her stress and depression.

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 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 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 not in the public interest. It is the Panel's conclusion that the penalty proposed is appropriate and reasonable in light of all penalty objectives. The Panel accepts the joint submission.

The Panel is aware that no cases are exactly alike. However, reviewing earlier cases can help determine the 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 a group of toddlers appropriately which resulted in a 21 month old child leaving the premises and being subsequently exposed to road-related traffic risks. Had the member properly followed the policies and procedures to properly plan for supervision, the incident could have been prevented. The Panel was especially concerned that the Child was so close to such a busy road and that no one knew the Child was missing.

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 on improving her supervision practices by voluntarily taking courses 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.

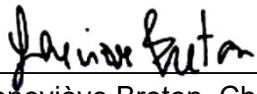
ORDER AS TO COSTS

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 60 days of the date of the Order.

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



Geneviève Breton, Chairperson

November 7, 2022
Date