

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Chelsea Lynne May Jalbert 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: Katie Begley, RECE, Chair
Geneviève Breton
Purvi Manek, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
CHELSEA LYNNE MAY JALBERT)	Self-represented
REGISTRATION # 37982)	
)	
)	
)	
)	Lonny Rosen
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: June 9, 2023

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 June 9, 2023. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8 (the “ECE Act”), 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 ECE 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 May 25, 2023, (Exhibit 1) which provided as follows:

1. At all material times, Chelsea Lynne May Jalbert (née Ferguson) (the “Member”) was a member of the College and was employed as a Supervisor at Weefolk Playhouse Inc., located in Ottawa, Ontario (the “Centre”).
2. On or about July 22, 2021, L.M., an employee of the Centre, reported to the Member, verbally and in writing, concerns that C.N.R., an RECE employed at the Centre’s preschool room, repeatedly engaged in abusive conduct towards children. Among other things, the concerns reported to the Member included information that C.N.R. screamed and swore at children, spoke to children in a demeaning and threatening manner, prevented a child from sleeping during

naptime despite the child being tired, forcefully grabbed children and isolated a child alone and unsupervised outside of the classroom.

3. The next day, on or about July 23, 2021, L.M. verbally reported to the Member that earlier that day, during nap time, she observed C.N.R. forcefully restrain a 3-year-old child to a cot.
4. Despite receiving the reports described in paragraphs 2 and 3 above, the Member failed to do the following:
 - a. She did not take steps to prevent the abusive conduct reported to her from reoccurring and ensure the safety and well-being of the children in the preschool room;
 - b. She did not report the concerns against C.N.R. to the Children's Aid Society ("CAS");
 - c. She did not instruct L.M. to report directly to CAS;
 - d. She did not file a Serious Occurrence Report with the Ministry of Education (the "Ministry");
 - e. She did not document the following:
 - i. meetings between herself, L.M. and the Centre's management regarding the concerns about C.N.R.;
 - ii. L.M.'s verbal reports to the Member regarding C.N.R.'s conduct;
 - iii. Her conversation with C.N.R. on or about July 23, 2021, regarding the reports made by L.M.;
 - f. She did not file a mandatory employer report with the College until approximately 6 months after C.N.R.'s termination from the Centre.
5. Between about March 2022 and July 2022, the Member falsely advised the College's investigator (the "Investigator"), both in writing and verbally, that the Centre did not have documentation requested by the Investigator and failed to provide the documentation to the Investigator.
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 ECE 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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children's well-being, contrary to Standard I.B.4 of the College's Standards of Practice;
 - ii. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
 - iii. The Member failed to work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College's Standards of Practice;
 - iv. The Member failed to observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - v. 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;
 - vi. 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;
 - vii. The Member failed to provide guidance and direction to supervisees that is respectful and fair and/or failed to ensure a level of supervision that is appropriate in light of the supervisee's education, training, experience and the activities being performed, contrary to Standard IV.C.8 of the College's Standards of Practice;

- viii. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, including to the College in relation to conduct of another RECE, contrary to Standard IV.C.11 of the College's Standards of Practice;
 - ix. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
 - x. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the Children's Aid Society, contrary to Standard VI.C.8 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 failed to keep records as required by her professional duties, contrary to Ontario Regulation 223/08, subsection 2(18);
 - e) The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21);
 - f) The Member acted in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22);
 - g) The Member failed to co-operate in an investigation conducted by the College, contrary to Ontario Regulation 223/08, subsection 2(25); and/or
 - h) The Member failed to take reasonable steps to ensure that the requested information is provided in a complete and accurate manner, if the member is required to provide information to the College under the Act, regulations or by-laws, contrary to Ontario Regulation 223/08, subsection 2(26).

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 11 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 a Supervisor at the Centre.

The Incidents

3. On Thursday, July 22, 2021, L.M., an employee of the Centre, reported to the Member, verbally and in writing, concerns that C.N.R., an RECE employed at the Centre's preschool room, repeatedly engaged in abusive conduct towards children. Among other things, the concerns reported to the Member included information that C.N.R. screamed and swore at children, spoke to children in a demeaning and threatening manner, prevented a child from sleeping during naptime despite the child being tired, forcefully grabbed children and isolated a child alone and unsupervised outside of the classroom.
4. That day, L.M., the Member, the Centre's Licensee (the "Licensee") and the Centre's Program Coordinator met to discuss L.M.'s report. During this meeting, the Licensee instructed the Member to terminate C.N.R.'s employment at the Centre and to report to the Ministry and the College. The Member refused to terminate C.N.R.'s employment.
5. The next day, on Friday, July 23, 2021, L.M. verbally reported to the Member that earlier that day, during nap time, she observed C.N.R. forcefully restrain a 3-year-old child to her cot by putting her leg over the child's back to restrict the child from moving, while whispering, "You're such a stubborn little one."
6. That day, L.M. also approached the Member and asked her what will be done regarding C.N.R.'s conduct and "keeping the children safe". The Member advised L.M. that at this point C.N.R.'s report is "going nowhere" and that it "will only stay with us" and "we will wait until Monday", or

words to that effect. L.M. feared for the children's safety and did not take a lunch break that day, to avoid leaving C.N.R. alone with the children.

7. Despite receiving L.M.'s reports, the Licensee's instructions and L.M.'s follow-up conversation, as described in paragraphs 3 – 6 above, the Member failed to do the following:
 - a. She did not take steps to prevent the abusive conduct reported to her from reoccurring and ensure the safety and well-being of the children in the preschool room;
 - b. She did not report the concerns about C.N.R. to the CAS;
 - c. She did not instruct L.M. to report directly to CAS;
 - d. She did not file a Serious Occurrence Report with the Ministry;
 - e. She did not document the following:
 - i. meetings between herself, L.M. and the Centre's management regarding the concerns about C.N.R.;
 - ii. L.M.'s verbal reports to the Member regarding C.N.R.'s conduct;
 - iii. Her conversation with C.N.R. on or about July 23, 2021, regarding the reports made by L.M.; and
 - f. She did not file a mandatory employer report with the College until approximately 6 months after C.N.R.'s termination from the Centre.
8. In March 2022, the Member falsely advised the Investigator, both in writing and verbally, that the Centre did not have documentation requested by the Investigator. The Member failed to provide the required documentation to the Investigator and over the course of four months and did not admit that the Centre was in possession of the documents. During this period of time, the Investigator managed to obtain some of the requested documents directly from L.M.

Additional Information

9. On Sunday, July 25, 2021, L.M. reported her concerns about C.N.R. to CAS.

10. The following day, on Monday, July 26, 2021, a CAS worker attended the Centre to begin investigating C.N.R.'s conduct. Later that day, the Licensee filed a Serious Occurrence Report with the Ministry, and C.N.R.'s employment at the Centre was terminated.
11. CAS verified two child protection concerns arising from C.N.R.'s conduct:
 - a. Physical force and/or maltreatment resulting in risk that a child is likely to be harmed; and
 - b. Risk that a child is likely to be emotionally harmed as a result of actions, inaction and/or inadequate response.
12. The Ministry also investigated C.N.R.'s conduct. It determined that C.N.R. engaged in prohibited practices and issued a Compliance Order against her.
13. The Centre's Program Statement Implementation Policy (the "Policy"):
 - a. Required the Supervisor to "immediately report any concerns or commission of any prohibited practices" to the Centre management, the Ministry, child protection agencies, and professional colleges within established guidelines.
 - b. Outlined the following examples of prohibited practices: physical restraint of a child, confining a child in an area or room without adult supervision, and use of harsh or degrading measures or threats or use of derogatory language directed at or used in the presence of a child that would humiliate, shame or frighten the child or undermine his or her self-respect, dignity or self-worth.
 - c. States the Supervisor is responsible for ensuring there is an investigation, documenting all discussions and having the parties sign off.
14. If the Member were to testify, she would advise the following:
 - a. She is familiar with her duty to report and failed in that duty with respect to the concerns raised by L.M.
 - b. It was wrong of her to not be truthful with the Investigator and not to provide the College with all documents that existed when she was asked to produce them.

- c. The incident has been a learning opportunity for her, and going forward, she will be more vigilant in her reporting obligations.

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 ECE 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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children's well-being, contrary to Standard I.B.4 of the College's Standards of Practice;
 - ii. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
 - iii. The Member failed to work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College's Standards of Practice;
 - iv. The Member failed to observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - v. 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;
 - vi. 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;

- vii. The Member failed to provide guidance and direction to supervisees that is respectful and fair and/or failed to ensure a level of supervision that is appropriate in light of the supervisee's education, training, experience and the activities being performed, contrary to Standard IV.C.8 of the College's Standards of Practice;
 - viii. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, including to the College in relation to conduct of another RECE, contrary to Standard IV.C.11 of the College's Standards of Practice;
 - ix. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
 - x. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the Children's Aid Society, contrary to Standard VI.C.8 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 failed to keep records as required by her professional duties, contrary to Ontario Regulation 223/08, subsection 2(18);
 - e. The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21);
 - f. The Member acted in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22);

- g. The Member failed to co-operate in an investigation conducted by the College, contrary to Ontario Regulation 223/08, subsection 2(25); and/or
- h. The Member failed to take reasonable steps to ensure that the requested information is provided in a complete and accurate manner, if the member is required to provide information to the College under the Act, regulations or by-laws, contrary to Ontario Regulation 223/08, subsection 2(26).

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 the evidence, consisting of the Agreed Statement of Facts, clearly established the allegations of professional misconduct as set out in the Notice of Hearing. The College submitted that the Member was working in a supervisory capacity when she received verbal and written reports from LM regarding conduct by CNR which amounted to verbal and physical abuse of children.

The College submitted that the Member engaged in professional misconduct when, in her capacity as Supervisor, she ignored multiple verbal and written reports of a pattern of abusive behaviour of an RECE under her supervision. The abusive conduct was not a single occurrence.

In her role as leader who held a position of trust and authority, the Member was required to report abuse and serious harm. By failing to report the abuse, she contravened two laws:

- 1) the *Child and Family Services Act* by failing to report to the CAS;
- 2) the *Childcare and Early Years Act* by failing to report to the Ministry.

The Member also failed to keep records as required by her professional duty. She failed to provide documents to the College and to cooperate in the investigation by telling a College investigator that she did not have the requested documents – both verbally and in writing.

The College submitted that the Member failed to ensure that the best interest of the children and their needs are paramount. The Member's behaviour fell below what is required of RECEs.

The Member had the duty to provide strong professional guidance to the Centre staff. She failed to direct supervisees to report observation and/or suspicion of abuse and did not take any steps to address the concerns raised by staff.

The Member failed to take adequate steps to protect the children against the abuse, which put them at risk of harm.

The College argued that any reasonable member of the profession would consider the Member's conduct to be dishonest, unethical and unprofessional.

The College submitted that the Member's behaviour reflects negatively on the profession as a whole and erodes the public trust. Her behaviour was disgraceful, dishonorable, unprofessional, and unbecoming of an RECE.

The Member admitted to the conduct and acknowledged the facts as set out in the Agreed Statement of Facts. She 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 accepted the evidence, consisting of the Agreed Statement of Facts, and that the Member's admission was informed and voluntary. The Panel found that all of the allegations set out in the Notice of Hearing were supported by the facts contained in the Agreed Statement of Facts.

The Panel accepted that the College proved that it is more likely than not that the alleged conduct occurred as stated in the Agreed Statement of Facts.

The Panel notes that, as a supervisor, the Member was required to document and report the incidents to CAS and the Ministry. She failed to report and document several incidents of abuse to children under her care.

This case is the third case that has come before the Discipline Committee in which the duty to report is front and center. This case is particularly egregious because the Member received verbal and written reports from one staff member about another staff member's verbal and physical abuse of children and did nothing. As a supervisor, she was required to document the incidents and report them to CAS and to the Ministry. She failed to do so, and withheld information / documentation about the incident while under investigation. The seriousness of her conduct demonstrates the Member's lack of integrity, lack of judgment and lack of responsibility, such that it reflects negatively on the profession. The Panel finds that the Member's conduct in this case showed dishonesty and disregard for the welfare and safety of children in her care. Such conduct should not be tolerated and would reasonably be regarded by members of the profession and the public as disgraceful, dishonorable or unprofessional, as well as conduct unbecoming a member of this profession.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and 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 the Proposed 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 Order.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of
 - a. 14 months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,

whichever is greater.

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:

Coursework

- 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 ECE Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation (the "Director") if a grade is not assigned) and at her own expense, the following course(s) (subject to the Director's pre-approval):
 - i. Duty to Report; and
 - ii. Ethics.
- b. The Member must provide the Director with proof of enrollment and successful completion of the course(s).

Mentorship

- c. 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 ECE 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.

- d. 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.
- e. 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.
- f. 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)).
- g. 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(e),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.

Other

- i. 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 \$1000, to be paid within 6 months 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 in the circumstances. College counsel submitted that the Proposed Order would send a message broadly to the community of RECEs and to the public at large that the Member's conduct was unacceptable and would not be tolerated. It would discourage other RECEs from engaging in similar conduct and it would send a specific message to the Member that her conduct was unacceptable. The Proposed

Order would assist in rehabilitating the Member and ensure that she learns from her wrongdoing. The Proposed Order was also within the range of penalties imposed in similar cases, while taking into account the specific aggravating and mitigating factors of this case.

Counsel for the College submitted that this is a unique case which involves a failure to uphold the fundamental requirements that all RECE's must abide by, namely:

1. The duty to report is crucial to protecting children from harm; and
2. Full and open cooperation with an investigation by the College is imperative for the profession to continue with the privilege of self-regulation.

This is the first case where an RECE has failed to cooperate with the College during an investigation. Such behaviour can negatively impact the public's trust in the ability of the College to regulate its members.

The College stated that strong guidance is necessary around the crucial importance of immediately reporting abuse to authorities. This cannot be stressed enough to RECEs. Additionally, guidance around the importance of full cooperation with investigations with the College is essential.

The College submitted that there are 13 aggravating factors in this case:

1. The Member's breach of the duty to report was a pattern of behaviour. It was not a momentary lapse of judgment. Even though it was not a prolonged pattern over an extended period, the fact that there were multiple reports that were not acted upon suggests a pattern.
2. The Member was in a leadership role at the Centre and held a position of trust and authority.
3. There were several verbal and written reports expressing concerns regarding children's well-being that the Member did not act upon.
4. The children were preschoolers and their young age made them more vulnerable.
5. The report related to several incidents of a serious pattern of abusive behaviour, including isolating a child, screaming at children, and forcefully grabbing and restraining a child at nap time.

6. The CAS found that there was a risk of physical and emotional harm to children. Had the Member taken immediate action and carried out her duty to report on July 22, 2021, a child would not have been subjected to forceful restraint the following day. The incident that occurred on July 23, 2021 could have been prevented.
7. The Member actively obstructed or delayed L.M.'s report to the authorities. When L.M. asked about the report, the Member said it was "going nowhere". This type of conduct is unethical, demonstrates a lack of integrity and is inconsistent with the leadership role the Member held.
8. The Member's conduct occurred in 2021, after the College had specifically communicated to the Membership the importance of their duty to report and the enhanced obligation of supervisors.
9. The Member did not take steps to prevent the abuse and to protect or ensure the safety of the children. Even when given instructions to terminate the employment of the RECE who was abusing children, the Member did not act. This continued to put children at risk of harm.
10. The Member spoke with the RECE in question but did not document the conversations. This interferes with the ability of the College to investigate and reflects negatively on the Member's reliability and leadership. The obligation to keep records is paramount.
11. The Member acted contrary to the Centre's Policy, which she was responsible for implementing. The Centre's Policy clearly stated that it was the Member's responsibility to report and document inappropriate conduct.
12. The Member failed to cooperate with the College investigation. She falsely said to the College Investigator that there were no documents in the possession of the Centre for four months, when that was not the case. This was an egregious and unethical attempt to tamper with the College's ability to investigate. Conduct regarding integrity and providing false information to the College as well as tampering with an investigation, will not be tolerated. This behavior calls into question the Member's governability.
13. The Member's conduct erodes the reputation of RECEs as a whole. The public and parents may lose trust in the College's ability to regulate supervisors who are responsible for protecting children.

There were two mitigating factors:

1. The Member pleaded guilty to misconduct and agreed to the penalty proposed, showing insight into her behaviour and a willingness to remediate. In this way, the Member took responsibility for her conduct, and that is important. By agreeing to the facts and penalty, she saved the College the time and expense of a contested hearing.
2. The Member has no prior misconduct history for the 11 years she has been registered.

The penalty combines a suspension along with robust measures to remediate the member through mentorship and coursework on the Duty to Report and Ethics. The joint submission was carefully crafted by the parties taking into consideration the range of penalties given to other Members and to registrants of other regulators.

College counsel advised the Panel that it should be mindful that a jointly proposed penalty should be accepted unless the penalty was so harsh or lenient that accepting it would bring the administration of justice into disrepute or would otherwise not be in the public interest.

The College provided the Panel with the following cases/resources to demonstrate that the Proposed Order was proportionate and consistent with similar conduct:

1. *Professional Advisory: Duty to Report*, (published June 2015 and updated January 2019);
2. *College of Early Childhood Educators v Asma Ather Kidwai*, 2019 ONCECE 11 (CanLII);
3. "Promoting children's rights to safety and well-being: Your duty to report," published in *Connexions*, October 14, 2019;
4. *Practice Note: Professional Supervision of Supervisees*, (published April 2020);
5. *College of Early Childhood Educators v Abena Brimpomaa Akosah*, 2022 ONCECE 9 (CanLII);
6. *College of Early Childhood Educators v Karyn Shelley Snow*, 2022 ONCECE 12 (CanLII);
7. *College of Early Childhood Educators v Rosie Jameak Black*, 2023 ONCECE 1 (CanLII);
8. *Ontario (College of Massage Therapists of Ontario) v Adam Muklewicz*, 2016 ONCMTO 9 (CanLII);
9. *Ontario (College of Dental Hygienists of Ontario) v. Boodoo-Cutbush*, 2020 ONCDHO 3 (CanLII);
10. Agreed Statement of Facts and Order of the Discipline Committee re: *College of Early Childhood Educators v Beverly Anne Renaud*, (June 2023);

Submissions of the Member on Penalty and Costs

The Member did not make any submissions.

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
 - c. 14 months; or
 - d. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) below,

whichever is greater.

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:

Coursework

- 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 ECE Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director if a grade is not assigned) and at her own expense, the following courses (subject to the Director's pre-approval):
 - i. Duty to Report; and
 - ii. Ethics.
- b. The Member must provide the Director with proof of enrollment and successful completion of the courses.

Mentorship

- c. 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 ECE 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.

- d. 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.
- e. 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.
- f. 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)).
- g. 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(e),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. 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.

Other

- i. 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 ordered meets the objectives outlined above. Accordingly, the Panel accepts the joint submission.

In reaching its decision, the Panel carefully considered the joint submission of the parties, the aggravating and mitigating factors, and the findings of comparable cases submitted by the College. The Panel found that the term of suspension in the proposed penalty is proportionate with the range of suspensions that were imposed in the comparable 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 by ensuring that the Member returns to practice with knowledge of her responsibilities. The Member will also be rehabilitated through the mentoring sessions and the ethics course work.

The Panel was especially appalled with the Member's conduct in actively preventing another RECE from reporting abuse and her failure to cooperate with a College investigation.

The Panel wishes to send a strong warning to the Profession that failure to report abuse, failure to support RECEs in reporting abuse, and actively tampering with a College investigation will not be tolerated and will be met with severe consequences, as demonstrated by the penalty in this case.

The Panel urges the College to send an update to RECEs regarding their duty to report and to cooperate with College investigations, with emphasis on the enhanced role of supervisors in supporting supervisees. Given the resources available through the College and the knowledge we have on the harm abuse causes to children, the Panel also encourages the College to seek more severe consequences and penalties in cases of failure to report abuse and to cooperate with College's investigations in the future.

ORDER AS TO COSTS

Subsection 33(5)(4) of the ECE 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 regarding 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 six months of the date of the Order.

I, Katie Begley, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel.



Katie Begley, RECE Chair

June 21, 2023
Date