

## NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Amandeep Kaur Johal 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:** Barbara Brown, RECE, Chair  
Adesua Ezeokafor  
Yalin Gorica, RECE

**BETWEEN:**

COLLEGE OF EARLY  
CHILDHOOD EDUCATORS

and

AMANDEEP KAUR JOHAL  
REGISTRATION # 48835

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For the College of Early Childhood Educators

Self-represented

Lonny Rosen,

Rosen Sunshine LLP

Independent Legal Counsel

Heard: April 27, 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 April 27, 2023. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8 (the “Act”), the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the College’s Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee.

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

## PUBLICATION BAN

The Panel ordered a publication ban following a motion by College counsel, on consent of the Member, pursuant to section 35.1(3) of the Act. The Panel’s 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 March 23, 2023, (Exhibit 1) which provided as follows:

1. At all material times, Amandeep Kaur Johal (the “**Member**”) was a member of the College and was employed as an Early Childhood Educator (“**ECE**”) at Vincent Massey Academy (the “**Centre**”) in Etobicoke, Ontario.
2. Between approximately Fall 2020 and March 2021, the Member was responsible for supervising the toddler classroom at the Centre. During this period, she engaged in the following conduct with the toddlers:

- a. Sometime in November 2020, during mealtime, the Member tied a 1½-year-old child (“**Child 1**”), to a small chair. The chair tipped over, causing Child 1 to fall. Child 1 then got up and walked around with the chair tied to their body.
  - b. Sometime in February 2021, the Member tied an almost 2-year-old child (“**Child 2**”) to a chair, after Child 2 did not follow the Member’s instruction to remain seated at the lunch table.
  - c. Sometime between February 2021 and early March 2021 a 21-month-old child (“**Child 3**”) did not want to sit down during snack time. The Member held Child 3, brought Child 3 to a chair, and tied Child 3. Child 3 became upset, began screaming, and attempted to loosen up the tie. Child 3 was then untied by another staff.
  - d. Sometime between February 2021 and early March 2021, the Member and another staff were preparing the toddlers to go outside. After Child 3 was dressed, the Member said words to the effect of “Ok, I think [Child 3] is ready for the tie now”. Child 3 told the Member “No, no, no”. Despite that, the Member tied Child 3 to a chair, causing Child 3 to cry. The chair toppled over, and Child 3 released themselves from the tie and ran away.
  - e. On or about March 9, 2021, the Member tied Child 1 to a chair during snack time.
  - f. On or about March 10, 2021, the Member tied Child 2 to a chair during lunch time.
  - g. On or about March 10, 2021, at around 4 p.m., while the Member and two other staff were preparing the toddlers to go outside, the Member tied Child 1 to a chair. Child 1 was “wiggling” and trying to release themselves, until Child 1 was untied by the Centre’s Supervisor who came into the room.
  - h. The Member regularly warned the toddlers they would be tied to a chair, by telling them words to the effect of “you’re going to the baby chair,” when they did not listen to the Member’s instructions.
3. On multiple occasions, between approximately Fall 2020 and March 2021, the Member instructed other staff to tie the toddlers.

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 Act, in that:
- a. The Member physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
  - b. The Member verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
  - c. The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
  - d. 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 be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College's Standards of Practice;
    - ii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 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 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; and/or
    - v. The Member failed to model professional values, beliefs, and behaviours with children, families, and colleagues, and/or she 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.

- e. 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
- f. 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 9 years. She is currently suspended for non-payment of fees or penalties and does not have a prior discipline history with the College.
- 2. At all material times, the Member was employed as a RECE at the Centre.

### **The Incidents**

- 3. Between approximately Fall 2020 and March 2021, the Member was responsible for supervising the toddler classroom at the Centre. During this period, she engaged in the following conduct with the toddlers:
  - a. Sometime in November 2020, during mealtime, the Member tied Child 1, to a small chair. The chair tipped over, causing Child 1 to fall. Child 1 then got up and walked around with the chair tied to their body.
  - b. Sometime in February 2021, the Member tied Child 2 to a chair, after Child 2 did not follow the Member's instruction to remain seated at the lunch table.
  - c. Sometime between February 2021 and early March 2021, Child 3 did not want to sit down during snack time. The Member held Child 3, brought Child 3 to a chair, and tied Child 3. Child 3 became upset, began screaming, and attempted to loosen up the tie. Child 3 was then untied by another staff.

- d. Sometime between February 2021 and early March 2021, the Member and another staff were preparing the toddlers to go outside. After Child 3 was dressed, the Member said words to the effect of “Ok, I think [Child 3] is ready for the tie now”. Child 3 told the Member “No, no, no”. Despite that, the Member tied Child 3 to a chair, causing Child 3 to cry. The chair toppled over, and Child 3 released themselves from the tie and ran away.
  - e. On or about March 9, 2021, the Member tied Child 1 to a chair during snack time.
  - f. On or about March 10, 2021, the Member tied Child 2 to a chair during lunch time.
  - g. On or about March 10, 2021, at around 4 p.m., while the Member and two other staff were preparing the toddlers to go outside, the Member tied Child 1 to a chair. Child 1 was “wiggling” and trying to release themselves until Child 1 was untied by the Centre’s Supervisor who came into the room. The Member stated to the Supervisor that she tied Child 1 because Child 1 was “running all over and climbing chairs”.
  - h. The Member regularly warned the toddlers they would be tied to a chair, by telling them words to the effect of “you’re going to the baby chair,” when they did not listen to the Member’s instructions.
4. On multiple occasions, between approximately Fall 2020 and March 2021, the Member instructed other staff to tie the toddlers. The staff refused to follow the Member’s instructions and “hid a tie from her”. The staff also confronted the Member about her conduct with the toddlers, as described in paragraph 3 above.

### **Additional Information**

- 5. The College is not aware of any physical marks, injuries or long-lasting impact to the Children as a result of the Incidents.
- 6. The Children’s Aid Society (“CAS”) and Toronto Police Service (“Police”) conducted a joint investigation. CAS verified the risk of physical harm from “Cruel/Inappropriate Treatment” by the Member. Police decided not to lay criminal charges against the Member.
- 7. The Member was terminated from her position as an RECE at the Centre as a result of the Incidents described above.

## **Admissions of Professional Misconduct**

8. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 4 above, and as defined in subsection 33(2) of *the Act*, in that:
- a. The Member physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
  - b. The Member verbally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
  - c. The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
  - d. 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 be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College's Standards of Practice;
    - ii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 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 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; and/or
    - v. The Member failed to model professional values, beliefs, and behaviours with children, families, and colleagues, and/or she 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.

- e. 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
- f. 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, which encompassed all of the allegations in the Notice of Hearing.

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 submitted in the Agreed Statement of Facts were supported by the evidence.

The College submitted that the facts established that on seven separate occasions, the Member physically, verbally, psychologically or emotionally abused three different toddlers by tying them to chairs and by threatening to tie them to chairs. The Member verbally abused the toddlers in her classroom regularly, warning them that they would be tied to chairs if they did not follow her instructions. Her conduct was emotionally abusive. The Member disregarded the children's physical and emotional well-being. Her conduct fell far below the standards required for all ECEs. By tying children to chairs, she demonstrated a profound disrespect for the children and failed to ensure the belonging and inclusion for all children. She failed to apply the professional standards, in which the use of physical restraint of children is a prohibited practice. The Member used inappropriate



guidance for children. Her conduct failed to model professional behavior to the children and other staff at the Centre and erodes public confidence. Her behavior was disgraceful, dishonourable and unprofessional and she acted in a manner that is unbecoming a member.

The Member did not make any submission.

## **FINDINGS AND REASONS FOR DECISION**

Having considered the facts set out in the Agreed Statement of Facts, the Member's guilty plea, and the submissions of the parties, the Panel accepted the Member's admission and rendered an oral decision on April 27, 2023, finding her guilty of professional misconduct as alleged the Notice of Hearing, contrary to Ontario Regulation 223/08, subsections 2(3), 2(3.1), 2(3.2), 2(8), 2(10), and 2(22).

The Panel finds that the Member physically abused children who were under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1) on numerous occasions such as: in November 2020, during mealtime, the Member tied Child 1 (who was 1½ years old) to a small chair; in February 2021, the Member tied Child 2 (an almost 2-year-old girl to a chair after Child 2 did not follow the Member's instruction to remain seated at the lunch table; and sometime between February 2021 and early March 2021, the Member held Child 3, brought him to a chair, and tied him when he did not want to sit down during snack time. There were four more documented incidents where the Member tied Children 1 and 2 to chairs in March 2021.

The Panel finds that the Member verbally abused children who were under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3), because the Member regularly warned the toddlers they would be tied to a chair, by telling them words to the effect of "you're going to the baby chair," when they did not listen to the Member's instructions.

The Panel finds that the Member psychologically or emotionally abused children who were under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2) in that sometime between February 2021 and early March 2021, the Member and another staff were preparing the toddlers to go outside. After Child 3 was dressed, the Member said words to the effect of "Ok, I think [Child 3] is ready for the tie now". Child 3 told the Member "No, no, no". Despite that, the Member tied Child 3 to a chair, causing him to cry. The chair toppled over, and Child 3 released

himself from the tie and ran away. The Member created an atmosphere of fear for children in the environment.

The Panel further finds that the Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8). By repeatedly tying children to chairs and threatening to tie them, she did not employ strategies that support ongoing positive interactions with children. Her interactions with the children did not give them a sense of security and belonging but caused them to be fearful. Her repeated pattern of behaviour put the children and public at risk. The Member did not work to create a safe, healthy and inviting environment to promote the children's sense of belonging, well-being or inclusion when she restrained and threatened them.

It was clear to the Panel that the Member did not uphold her professional commitment to model professional values, beliefs and behaviours expected of the profession and that her conduct was disgraceful, dishonourable and unprofessional. On multiple occasions, between approximately Fall 2020 and March 2021, the Member instructed other staff to tie the toddlers. The staff refused to follow the Member's instructions and "hid a tie from her". The staff also confronted the Member about her conduct with the toddlers. The Panel found the Member's conduct to be in direct violation of Regulation 223/08 and the Code of Ethics and Standards of Practice.

The Panel was deeply concerned regarding the behaviours the Member adopted towards children and staff by using prohibited measures and interventions. Her behaviour was unbecoming of a member of the ECE profession, contrary to Ontario Regulation 223/08, subsection 2(22), and eroded public confidence in the 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 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

- 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 practicing 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:
  - 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 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 courses (subject to the Director's pre-approval):
    - i. Anger management;
    - ii. Building positive and responsive relationships with children; and
    - iii. Positive intervention strategies.
  - b. The Member must provide the Director with proof of enrollment and successful completion of the courses.
  - 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 *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. 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.
- i. After the suspension in section 2 above ends, for a period of 6 months, the Member shall only practise as an RECE in a setting or settings, approved by the Director in writing and where a workplace monitor(s) (the "Monitor") approved by the Director is available to monitor the Member's practice.
- j. The Member shall only practise within the scope of an RECE, as defined by section 2 of the *Early Childhood Educators Act, 2007*, after arranging a monitoring relationship with a Monitor, who:

- i. is an RECE in good standing with the College or a Member of another regulated profession in good standing with their regulatory body;
- 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 or their regulatory body;
- iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College or their regulatory body;
- v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College or their regulatory body; and
- vi. is pre-approved by the Director. In order to pre-approve the Monitor, the Member will provide the Director with:
  - 1. all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Monitor;
  - 2. a written confirmation by the Monitor that the Monitor received a copy of this Order;
  - 3. the Monitor's written agreement that:
    - a. the Monitor shall, for the duration of the monitoring relationship, be physically present at the workplace when the Member is practising as an RECE. On days that the Monitor is not physically present at the workplace, the Monitor will designate a suitable substitute to monitor the Member.
    - b. the Monitor will co-operate with the College, including by providing the College with any information that it requires to ensure that the Member is complying with the workplace monitoring sections of this Order and agreeing to notify the Director immediately, in writing, if the Monitor believes that the Member may have committed an act or omission which may constitute professional misconduct.

- k. The Member shall advise the Director, in writing, if:
    - i. the monitoring relationship between the Member and the pre-approved Monitor has ended;
    - ii. the Monitor is unable to personally monitor the Member for a consecutive period of over 30 days;
    - iii. the Monitor wishes to end the monitoring relationship; and/or
    - iv. the Member wishes to end the monitoring relationship with the pre-approved Monitor and enter into a monitoring relationship with a new Monitor.
  - l. If one of the conditions of the monitoring relationship with the Monitor is not met, the Monitor's agreement will no longer be in effect and the Member must cease practising until another Monitor is approved by the Director.
  - m. 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 6 months of the date of this Order.

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

In its submissions, the College indicated that physical abuse is the most common type of complaints brought against RECEs, but this case stood out in its severity as this is the first case of tying children coming before the Panel.

Counsel for the College submitted that the Proposed Order was appropriate in the circumstances. The Penalty ordered must first and foremost protect the children cared for by RECEs as well as the public, and must enhance public confidence in the ability of the College to regulate registered early childhood educators. 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 denounce the practice of restraining or tying children and discourage other RECEs from engaging in similar conduct. The penalty order would

also send a specific message to the Member that her conduct was unacceptable and deter her from engaging in professional misconduct in future. The Proposed Order would assist in rehabilitating the Member and ensure that she learned fully from her wrongdoing. The proposed order should be consistent with other similar cases, bearing in mind that this is the first of its kind.

The College counsel submitted that there were eleven aggravating factors:

1. The Member's conduct was a pattern of behaviour over a period of 4 months, and not an isolated incident.
2. The age of the children: all were young toddlers between 1.5 to 2 years old.
3. On seven separate occasions, the Member physically restrained the children by tying them to chairs, and leaving them even when the children demonstrated discomfort, making them upset which caused unnecessary power struggle with the children.
4. Three children were targeted by the Member, and Child 1 was physically restrained 3 times, Child 2 and Child 3 were each restrained 2 times.
5. Physical restraint presented a risk of physical harm to the toddlers. Chairs were toppled over with the children tied to the chair.
6. In two of the incidents, the children were not released until other staff intervened and untied them.
7. At least one child was emotionally affected by the incident. Child 3 cried and said "no, no, no" when threatened.
8. Children in her care were regularly subjected to verbal abuse in the form of warnings that they would be "going to the baby chair".
9. The physical and verbal abuse was in the presence of other children, creating a loss of sense of security.
10. The Member instructed other staff to tie the toddlers.
11. The Member's behaviour continued despite being confronted by other staff and trying to "hide the tie" from her.

Counsel for the College also submitted two mitigating factors:

1. The Member pleaded guilty and agreed to a Joint Submission of Penalty. By doing so, she saved time and expenses of this proceeding to a contested hearing.
2. The Member had no prior history of professional misconduct.



There were also two additional factors that the College submitted were neither aggravating nor mitigating, but which warranted consideration:

1. The College was not aware of physical injury or marks on the children.
2. There was no evidence to suggest long lasting emotional harm to the children.

College counsel advised the Panel that there are three remediating measures proposed in the penalty order, which include the course work, mentorship and workplace monitoring to help with the member's rehabilitation. Counsel also suggested that it should be mindful that a jointly proposed penalty should be accepted unless the penalty was so harsh or lenient that it would bring the administration of justice into disrepute or would otherwise not be in the public interest.

College counsel provided the Panel with four cases to satisfy the Panel that the Proposed Order was proportionate and consistent with similar conduct, though none of them involved identical circumstances.

*College of Early Childhood Educators v. Leslie Nicole Raybon*, 2021 ONCECE 2

*College of Early Childhood Educators v. Latesha Kristen Parenteau*, 2022 ONCECE 11

*College of Early Childhood Educators v. Jessica Primeau*, 2021 ONCECE 8

*College of Early Childhood Educators v. Amal Ali*, 2019 ONCECE 2

College counsel submitted that these cases demonstrated that RECEs who were found to have physically abused a child under their care received penalties consisting of suspensions in the range of nine to eleven months to revocation of the Member's certificates of registration. While no two cases are identical, College counsel submitted that these cases showed that the Proposed Order was not far out of the range of penalties imposed in similar cases and was appropriate in this particular case.

College counsel submitted that the Proposed Order included an amount for costs agreed upon by the parties. The College submitted that, although this was a symbolic amount representing a fraction of the College's actual costs, it was important to demonstrate that the membership as a whole, through their dues, should not be required to pay for the inappropriate actions of one member.

### **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 a Panel to be reprimanded within 90 days of the date of the Order.
2. The Registrar is directed 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. 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 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 courses (subject to the Director's pre-approval):
  - i. Anger management;

- ii. Building positive and responsive relationships with children; and
  - iii. Positive intervention strategies.
- 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 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.

### **Workplace Monitoring**

- i. After the suspension in section 2 above ends, for a period of 6 months, the Member shall only practise as an RECE in a setting or settings, approved by the Director in writing and where a workplace monitor(s) (the "**Monitor**") approved by the Director is available to monitor the Member's practice.
- j. The Member shall only practise within the scope of an RECE, as defined by section 2 of the Act, after arranging a monitoring relationship with a Monitor, who:
  - i. is an RECE in good standing with the College or a Member of another regulated profession in good standing with their regulatory body;
  - 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 or their regulatory body;
  - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College or their regulatory body;
  - v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College or their regulatory body; and
  - vi. is pre-approved by the Director. In order to pre-approve the Monitor, the Member will provide the Director with:
    - 1. all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Monitor;

2. a written confirmation by the Monitor that the Monitor received a copy of this Order;
3. the Monitor's written agreement that:
  - a. the Monitor shall, for the duration of the monitoring relationship, be physically present at the workplace when the Member is practising as an RECE. On days that the Monitor is not physically present at the workplace, the Monitor will designate a suitable substitute to monitor the Member.
  - b. the Monitor will co-operate with the College, including by providing the College with any information that it requires to ensure that the Member is complying with the workplace monitoring sections of this Order and agreeing to notify the Director immediately, in writing, if the Monitor believes that the Member may have committed an act or omission which may constitute professional misconduct.
- k. The Member shall advise the Director, in writing, if:
  - i. the monitoring relationship between the Member and the pre-approved Monitor has ended;
  - ii. the Monitor is unable to personally monitor the Member for a consecutive period of over 30 days;
  - iii. the Monitor wishes to end the monitoring relationship; and/or
  - iv. the Member wishes to end the monitoring relationship with the pre-approved Monitor and enter into a monitoring relationship with a new Monitor.
- l. If one of the conditions of the monitoring relationship with the Monitor is not met, the Monitor's agreement will no longer be in effect and the Member must cease practising until another Monitor is approved by the Director.

### **Other**

- m. 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.

The Panel is aware that no two cases are exactly alike. However, reviewing earlier cases can help determine the appropriate level of penalty. The Panel therefore considered the previous cases that were presented by College counsel and felt that the Proposed Order was proportionate and consistent with other cases where there was similar conduct.

The Panel found that the penalty jointly proposed by the parties in this case, was harsher than that at issue in the *Raybon*, *Parenteau* and *Primeau* cases, but lighter than the penalty imposed in *Ali*, but was within the range of penalties established by these cases, and was appropriate in the circumstances. In the case of *Primeau*, there was a pattern of prolonged physical and verbal abusive conduct towards children and caused emotional and physical marks on children. However, the registrant in that case accepted responsibility, demonstrated remorse and showed a strong willingness to work hard to rehabilitate. Therefore, the Panel in that case accepted that an 11 months suspension with additional coursework and 7 months of mentoring was sufficient to ensure protection of the public interest and the registrant's rehabilitation. In the case of *Ali*, where the registrant's certification was revoked, the revocation in that case was the result of the registrant's lack of participation in the discipline process which caused the Panel in that case to be concerned about the prospect for that registrant's rehabilitation.

The Panel found that the Member physically abused children who were under her professional supervision, on numerous occasions. The Member tied toddlers to chairs when they did not listen to the Member's instructions. Also, the Panel found that the Member verbally, psychologically and emotionally abused children who were under her professional supervision. The Member created an atmosphere of fear for children in the environment and failed to maintain the standards of the profession. Her repeated pattern of behaviour put the children and public at risk. The Member did not work to create a safe, healthy and inviting environment to promote the children's sense of belonging, well-being or inclusion when she restrained and threatened them.

The Panel was deeply concerned regarding the behaviours the Member adopted towards children and staff by using prohibited measures and interventions. As this is the first case of tying children to chairs that has been brought before the Discipline Committee, the penalty proposed must address the severity of this misconduct. The Panel was satisfied that the suspension of the Member for at least 14 months, along with the reprimand, coursework, mentorship and workplace monitoring will act as specific deterrents to the member and will provide general deterrence to other members of the profession, preventing them from engaging in such conduct.

The Panel found that a suspension was necessary in this case to address the Member's engagement in physical, verbal, psychological and emotional abuse of children under her care and her use of prohibited behaviour intervention was totally unacceptable. The Member should have positive behaviour management strategies at her disposal, to support and promote pro-social behaviour.

The Panel trusts that this suspension will demonstrate to the Member how seriously the College takes this kind of unacceptable conduct and the obligation of providing a safe environment for children. The Panel trusts that this suspension (which will commence when the Member pays her outstanding dues) will allow her time to reflect on her actions.

The Panel found that the reprimand will remind the Member of her professional responsibility, and that the required coursework will provide the tools necessary to learn and reflect on appropriate practices and mentorship will provide her with a positive role model. The Panel is especially satisfied with continued workplace monitoring for 6 months after the Member returns to practice to ensure that the Member's conduct is meeting the professional standards of RECEs. The proposed terms, conditions and limitations will help the Member rehabilitate, remind her of her professional obligations and help her develop the skills and strategies to make better decisions in her interactions with the children when she returns to practice.



Having considered all these factors, the Panel was satisfied that the penalty ordered in this case was 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 ordered that the Member pay the College its costs, fixed in the amount of \$1000 to be paid within 6 months of the date of the Order.

**I, Barbara Brown, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel.**



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Barbara Brown, RECE, Chairperson

June 14, 2023

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Date