

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Alyssa Spadafora 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, Chair
Katie Begley, RECE
Purvi Manek, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
ALYSSA SPADAFORA)	Self-represented
REGISTRATION # 54921)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: June 1, 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 1, 2023. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (the “ECE 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 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 April 12, 2023, (Exhibit 1) which provided as follows:

1. At all material times, Alyssa Spadafora (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at Seneca College - King Observation Lab Teaching School (KOLTS), King City, Ontario (the “School”).
2. On or about the morning of July 23, 2019, the Member and C.C., a Registered Early Childhood Educator (“RECE”) (collectively, the “Staff”) were responsible for supervising a group of 12 children, including a [REDACTED] child with special needs (the “Child”), at an unfenced forested area near the School. At approximately 10:50 a.m., the Member failed to notice that the Child wandered away from the group. As a result, the Child remained alone

and unsupervised. Approximately 7 – 10 minutes later, the Child was found at Seneca College's North exit driveway. The Member did not notice that the Child was missing until the Staff were notified that the Child had been found.

3. By engaging in the conduct set out in paragraph 2 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 observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the College's Standards of Practice;
 - c) The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful,

dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and/or

- d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

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:

1. The Member has had a certificate of registration with the College for approximately seven years. She is in good standing and does not have a prior discipline history.
2. At all material times, the Member was employed as an RECE at the School.

The Incident

3. On the morning of July 23, 2019, the Staff were responsible for supervising a group of 12 children at an unfenced forested area near the School. The group included 8 kindergarten-aged children and 4 school-aged children, including the Child. King Campus (the “Campus”), which includes the School, is situated in a large, forested area, with multiple walking paths and paved roads, and in close proximity to a lake.
4. The Staff were aware of the enhanced need to continuously supervise the Child and knew that due to the Child’s special needs the Child “wandered off” in the past. Despite that, at approximately 10:50 a.m., the Staff failed to notice that the Child wandered away from the group and left the area alone and unsupervised.
5. Approximately 7 – 10 minutes later, a Campus employee found the Child near the north exit driveway from the Campus and brought him to the Campus security office. The security staff called Police. They also called the School’s Supervisor (the “Supervisor”), provided her with the Child’s description and inquired whether the Child attended the School.

6. The Supervisor called the Staff to confirm that the description provided to her matched the Child. Until that point, the Staff did not know that the Child was missing. The Supervisor then attended the security office and brought the Child back to the School.

Additional Information

7. Following the incident (the Incident”), the School developed an Individual Safety Plan (“ISP”) for the Child.
 - a. The ISP stated that the Child “WILL wander and leave the building or area of play and is unaware of danger (roads/water/cars). [The Child] needs eyes on at all times”. In describing the Child’s behaviour, the ISP noted, among other things that the Child can easily get “into a zone of focus on his walking and not be aware of his surroundings” and that [the Child] will continue walking “until something or someone stops [them].
 - b. The ISP indicated that the Child required “constant visual supervision”. Among other things, the ISP required that the Child be with “one designated educator” when “playing group or outdoor games”.
 - c. The Staff signed off on the ISP a week after the Incident. Accordingly, when there was no designated educator to supervise the Child, the Staff would not leave the School’s fenced-in area.
8. The School also revised its supervision policy and procedures following the Incident, requiring staff to review ISPs for children who are “at risk of wandering”.
9. As a result of the Incident, the School issued a written warning to the Member.
10. If the Member were to testify, she would advise the following:
 - a. Following the Incident, the Member and C.C. collaborated with the School’s management in creating the Child’s ISP. The Member also enhanced her supervision practices to ensure a similar incident would not occur in the future.
 - b. She takes the Incident seriously and used it as an opportunity for growth and continued improvement as an educator.

11. In November 2022, the Member engaged in professional development to improve and enhance her practice with children who have special needs.

Admissions of Professional Misconduct

12. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 – 6 above, and as defined in subsection 33(2) of the Act, in that:

- a. The Member failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- b. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development, and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families, and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - 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 which was contained in the Agreed Statement of Facts.

College Counsel submitted that the Member failed to adequately supervise a child with special needs under her care. By failing to properly supervise the children and notice a child was missing, the Member breached professional standards by exposing the Child to a potentially harmful and unsafe situation.

The key failure was that the Member didn't observe and monitor the environment despite knowing the Child's developmental needs. The Member also failed to collaborate with her colleague to ensure a safe and developmentally appropriate environment for the children.

The Member did not provide the children under her care with a safe environment. She failed to model appropriate behaviour and comply with relevant legislation and regulations, or the College's Code of Ethics and Standards of Practice. Her conduct reflects on the profession as a whole and erodes public confidence in RECEs.

Although other staff were present, the Member is responsible for performing her duties independent of other staff.

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 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 the profession, as she failed to provide appropriate supervision and a safe environment to the Child despite being aware of the Child's enhanced need to be continuously supervised. Staff, including the Member, did not notice the Child was missing until notified by the Supervisor.

By failing to follow procedures and by her lack of supervision, the Member put the Child at great risk. The Member contravened the standards of practice when she neglected to observe and monitor the learning environment and take responsibility to avoid exposing the Child to harmful or unsafe situations. 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 unprofessional.

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 5 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 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 of Professional Regulation (the "Director"). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, once the suspension in section 2 above ends, the Member can commence or resume employment as an RECE after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty and Costs, and
 - iv. the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor at least every 2 weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- e. After a minimum of 5 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,

- ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.
 - g. The College may require proof of compliance with any of the terms in this Order at any time.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, within 6 months of the date of this Order.

Submissions of the College on Penalty and Costs

College Counsel submitted that the Panel should accept the parties' Joint Submission on Penalty as proposed.

College submitted that failure to supervise is the most common type of misconduct brought before the Discipline Committee.

College Counsel further 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 – especially when it involves a child with special needs. 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 structured 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 additional factors for the Panel's consideration.

The aggravating factors were:

1. The incident involved a vulnerable child with special needs and enhanced caution was required.
2. The Child faced road-related risks being on the Campus driveway.
3. The Child was unsupervised for 7 to 10 minutes, along with additional time spent with Campus security, before being picked up by the Supervisor.
4. The Member and her colleague did not appear to know the Child was missing until the Supervisor contacted them.

College Counsel also identified the mitigating factors in this case, including the following:

1. The Member acknowledged her wrongdoing, took responsibility, and fully cooperated with the investigation by the College.
2. The Member pleaded guilty and agreed to a joint submission, thereby saving the College the time and expense of a contested hearing.
3. The Member had no prior history of misconduct with the College.
4. The Member participated in developing an ISP to address the Child's unique needs following the incident. Had the ISP been put in place prior to the Incident, the situation could have been prevented. However, this does not excuse nor diminish the enhanced obligation to adequately supervise, but it explains why the College agreed to a suspension in the lower end of the range for similar conduct.

College Counsel noted that there were three additional considerations for the Panel to consider:

1. The Child was not physically injured or harmed.
2. There was no evidence of any long-lasting emotional impact on the Child.
3. The Incident was not reflective of a pattern of behaviour on the part of the Member.

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

1. *College of Early Childhood Educators v Cristina Cammisa*, 2023 ONCECE 3 (note, this case involved the other RECE in the Incident)

2. *College of Early Childhood Educators v Natalia Catalina Gomez*, 2022 ONCECE 17
3. *College of Early Childhood Educators v Lay Tu*, 2022 ONCECE 16
4. *College of Early Childhood Educators v Ariana Belen Ontaneda*, 2022 ONCECE 18

College Counsel submitted that these cases represented conduct of a similar nature and established that the Proposed Order was proportionate and reasonable and would not bring the administration of justice into disrepute or affect public confidence. College Counsel further submitted that the proposed penalty would protect the public and enhance the College's ability to regulate its members.

College Counsel further submitted that the Proposed Order also included an amount for costs that had been jointly agreed upon.

Submissions of the Member on Penalty and Costs

The Member made no submissions but indicated she accepted the Proposed Order.

PENALTY DECISION

The Panel accepts 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 5 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 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.

- b. Within 14 days of commencing or resuming employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,

- iii. the Joint Submission on Penalty and Costs, and
 - iv. the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor at least every 2 weeks after the Mentor has been approved by the Director to discuss the following subjects:
- i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- e. After a minimum of 5 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
- i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- f. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.

- g. The College may require proof of compliance with any of the terms in this Order at any time.

REASONS FOR PENALTY

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate registered early childhood educators. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The penalty should be proportionate to the misconduct.

In considering the joint submission, the Panel was mindful that a jointly proposed penalty should be accepted unless its acceptance would bring the administration of justice into disrepute, or it is otherwise not in the public interest.

It is the Panel's conclusion that the penalty proposed is appropriate and reasonable in light of all the 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 also took particular note of the case relating to the other member involved in the Incident.

The Panel took note that the Member failed to supervise a child with special needs, which resulted in a vulnerable child being unsupervised for a period of approximately 7 to 10 minutes. Had the Member properly supervised the Child, the Incident could have been prevented. The Panel was especially concerned that the Member was completely unaware of the absence of the Child from her group until she was notified by the Supervisor.

The Panel wishes to remind the Member and all members that children's individual development must be taken into account to provide safe and appropriate supervision. There are circumstances where members are expected to exercise enhanced caution and continuously monitor the environment – this was one of them.

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 worked on improving her professional practices by assisting with the ISP to make certain that this situation will not recur. Having considered all these factors, the Panel is satisfied that the Proposed Order in this case is appropriate and in the public interest.

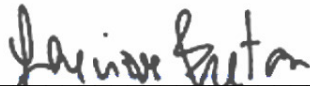
ORDER AS TO COSTS

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 six months of the date of the Order.

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



Geneviève Breton, Chair

June 20, 2023
Date