

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Robert Tomas Phippard 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
Richard Fillion, DDS
Ann Hutchings, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
ROBERT TOMAS PHIPPARD)	Self-represented
REGISTRATION # 65288)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: July 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 July 27, 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 June 29, 2023, which provided as follows:

1. At all material times, Robert Tomas Phippard (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”).
2. Between on or about March – April 2019, the Member worked at Parkwood Children’s Daycare Centre of London, Inc., (“Parkwood”) located in London, Ontario. During this period, the Member engaged in the following conduct with preschool-aged children:
 - a. On or about April 4, 2019, the Member forcefully grabbed a three-year-old girl (“Child 1”) by her upper arms and repeatedly shook her back and forth, causing Child 1 to cry and

be scared, until another Registered Early Childhood Educator (“RECE”) intervened. As a result of the Member’s conduct, Child 1 suffered long term anxiety, which required therapy.

- b. The Member frequently made unnecessary and/or uninvited physical contact with children, despite repeated instructions to the contrary by other staff. This included, among other things, holding children in his lap and tickling them.
 - c. On more than one occasion, the Member referred to one of the girls (“Child 2”) as his “girlfriend” and/or to himself as Child 2’s “boyfriend”.
 - d. On one occasion, the Member kissed Child 2 on, or in the vicinity of, her neck.
3. On or about June 28 – 30, 2021, the Member worked at Western Day Care Centre, (“Western”) located in London, Ontario. During this period, the Member engaged in the following conduct with preschool-aged children:
- a. The Member made unnecessary and/or uninvited physical contact with children, as follows:
 - i. The Member frequently pulled the children and/or sat and/or held them onto his lap.
 - ii. The Member frequently touched and/or rubbed and/or tickled children’s hips, inner thighs and belly buttons, including under their clothes.
 - 1. On one of these occasions, during naptime, the Member “kept rubbing” the belly button of one of the boys (“Child 3”), in circular motion, while Child 3 lay on his cot. Child 3 “did not like” the Member’s touch and could not fall asleep as a result.
 - 2. On one of these occasions, during outdoor play, the Member repeatedly held children by their inner thigh and/or above the knee, as they were going down a slide. Two of the boys felt uncomfortable as a result of the Member’s touch - one of them pulled his knees up on the slide, to prevent the Member from holding him, and the other stopped using the slide altogether.
 - iii. On one occasion, during naptime, the Member sat next to one of the boys (“Child 4”), with one of his hands “splayed” on Child’s 4’s buttocks and “patted” Child 4’s

back, despite Child 4 squirming and telling the Member “No”, until another staff intervened.

- b. On multiple occasions, the Member referred to children’s body parts as “naughty knees” and “sneaky armpits”, or words to that effect.
- c. On at least one occasion, the Member said to children words to the effect of “You are my baby and I’m the man. I’m going to squish you like a teddy bear” and “You’re my baby”, as well as referred to children as his “squishy teddy bears”.
- d. On one occasion, during an activity with frozen popsicles, the Member said to a child words to the effect of “it’s really cold, should I stick it down your shirt?”.
- e. On more than one occasion, the Member referred to one of the boys (“Child 5”) as his “BFF” and told Child 5 they were “best friends”.
- f. On more than one occasion, the Member grabbed children’s arms and/or tickled their necks and/or pretended to bite them, while telling the children words to the effect of “I’m going to eat you”. As a result of the Member’s conduct, Child 5 sought reassurance from other staff that “it’s not okay to eat little boys”.

Allegations of Professional Misconduct

4. By engaging in the conduct set out in paragraphs 2 and 3 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the ECE Act, in that:
 - a. The Member physically abused a child who was under his professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
 - b. The Member verbally abused a child who was under his professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
 - c. The Member psychologically or emotionally abused a child who was under his 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 his professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
- v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or he failed to understand that his conduct reflects on him as a professional and on his profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
- vi. The Member failed to understand that he is responsible for maintaining and managing professional relationships with children, contrary, contrary to Standard V.B.1 of the College's Standards of Practice;
- vii. The Member failed to understand that boundary violations with children, include sexual misconduct and non-sexual boundary violations, and failed to understand that non-sexual boundary violations can be emotional, physical, social or financial, contrary to Standard V.B.4 of the College's Standards of Practice; and/or
- viii. The Member failed to establish and maintain clear and appropriate boundaries in professional relationships with children under his professional supervision, contrary to Standard V.C.1 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).

WITHDRAWAL OF ALLEGATIONS

The College requested permission to withdraw factual allegation 3(d) in the Notice of Hearing as outlined above. The Member consented to the withdrawal of this allegation. On this basis, the Panel withdrew allegation 3(d) and the hearing proceeded on the basis of the remaining allegations in the Notice of Hearing.

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, which provided as follows:

- 1. The Member has had a certificate of registration with the College for approximately six years. He is in good standing with the College and does not have a prior discipline history with the College.
- 2. At all material times, the Member was employed as an RECE at Parkwood in London, Ontario or at Western in London, Ontario.

The Incidents

- 3. On April 4, 2019, the Member engaged in the following conduct with Child 1, during his employment at Parkwood:
 - a. At around 11:45 a.m., the Member raised his voice and spoke harshly with Child 1, after she had pushed another preschool-aged girl near the lunch table. Child 1 became upset and began crying.

- b. The Member then forcefully grabbed Child 1 by her upper arms and repeatedly and roughly shook her back and forth as he asked her words to the effect of how would she like it if he or someone pushed her. The Member's actions caused Child 1 to cry and be scared. Another RECE approached the Member and tried to intervene by calling the Member's name. The Member stopped shaking Child 1 only after the third time the other staff called out to him.
4. As a result of the Member's conduct, as described in paragraph 3 above, Child 1 suffered long term anxiety which required therapy. Among other things, following the incident, Child 1 struggled with attending Parkwood and frequently woke up at night, worrying about the possibility of seeing the Member again.
5. Between March – April 2019, the Member engaged in the following conduct with preschool-aged children during his employment at Parkwood:
 - a. The Member frequently made inappropriate, unnecessary and/or uninvited physical contact with children, despite repeated instructions to not do so by other staff. This included, among other things, holding children in his lap and tickling them.
 - b. Between March – April 2019, on more than one occasion, the Member referred to Child 2 as his "girlfriend" and to himself as Child 2's "boyfriend".
 - c. On March 21, 2019, the Member kissed Child 2 on or in the vicinity of her neck.
6. Between June 28 – 30, 2021, the Member engaged in the following conduct with preschool-aged children during his employment at Western:
 - a. The Member made inappropriate, unnecessary and/or uninvited physical contact with children, as follows:
 - i. The Member frequently pulled the children onto his lap, sat them in his lap and/or held them on his lap.
 - ii. On multiple occasions, the Member referred to children's body parts as "naughty knees" and "sneaky armpits", or words to that effect. The Member would reach under the children's shirts to tickle them under the arm and/or tickle them under the arm when they were not wearing shirts.

- iii. On at least one occasion, the Member said to children words to the effect of “You are the baby” and referred to children as his “teddy bears”. As the Member said this, he tickled the children on the hip, inner thigh and belly button.
 - iv. On one occasion, during naptime, the Member “kept rubbing” the belly button of Child 3 in a circular motion, while Child 3 lay on his cot. Child 3 “did not like” the Member’s touch and could not fall asleep as a result.
 - v. On one occasion, during outdoor play, the Member repeatedly held children by their inner thigh and/or above the knee as they were going down a slide. Two of the boys felt uncomfortable as a result of the Member’s touch - one of them pulled his knees up on the slide to prevent the Member from holding him and the other stopped using the slide altogether.
 - vi. On one occasion, during naptime, the Member sat next to Child 4, with one of his hands “splayed” on Child’s 4’s buttocks and “patted” Child 4’s back, despite Child 4 squirming and telling the Member “No”, until another staff intervened.
- b. On more than one occasion, the Member referred to Child 5 as his “BFF” and told Child 5 they were “best friends”.
 - c. On more than one occasion, the Member grabbed children’s arms and/or tickled their necks and/or pretended to bite them, while telling the children words to the effect of “I’m going to eat you”. As a result of the Member’s conduct, Child 5 sought reassurance from other staff that “it’s not okay to eat little boys”.

Additional Information

- 7. The Children’s Aid Society (“CAS”) investigated the Member’s conduct at Parkwood, as described in paragraph 3 above. CAS verified the incident involving Child 1, as described in paragraph 3(a) above and determined that the Member displayed limited caregiving skills resulting in risk of harm to the child. On June 7, 2019, CAS notified the Member of their decision and advised him the following: “Moving forward, you are strongly encouraged to consider your involvement in this type of employment. Should you seek out such employment again or any other employment with children, you are encouraged to seek additional training and education, specific to working with children, before doing so”.

8. CAS also investigated the Member's conduct at Western, as described in paragraph 4 above and did not verify the allegations against him.
9. Parkwood's Prohibited Practices Policy ("Parkwood's Policy") clearly stated that corporal punishment of a child, "including but not limited to squeezing any part of the child's body", is a prohibited practice. Parkwood's Policy prohibited staff from engaging in "practices based on negative control of children's behaviour".
10. On March 20, 2019, approximately two weeks prior to the incident involving Child 1, as described in paragraph 3(a) above, Parkwood's Supervisor addressed concerns with the Member following an interaction where he appeared to be frustrated with children and raised his voice at them. The Supervisor emphasized to the Member that he should avoid using "power over" children and using a loud and firm tone, and instead focus on working with the children.
11. The Member began working at Parkwood in approximately October 2018. His employment was terminated on April 9, 2019, after the Centre determined the Member's conduct with Child 1, as described in paragraph 3(a) above, involved prohibited practices.
12. The Member began working at Western in approximately February 2020. His employment was suspended with pay while CAS investigated the conduct described in paragraph 4 above. The Member resumed working at Western after CAS concluded its investigation and remained employed at Western until approximately January 2023.
13. If the Member were to testify, he would advise the following:
 - a. He deeply regrets his actions during the incident involving Child 1 at Parkwood. He "opted not to work in the field for almost a year [following that incident], realizing (his) actions were not appropriate and not conducive [sic] to being a good educator". He would add that he "took this time as an opportunity to evaluate (his) decision to be an Early Childhood Educator and consider why (he) entered the field in the first place."
 - b. The Member did not intend to negatively impact the emotions of Child 1, any of the children mentioned above, or any other child who may have observed his conduct.
 - c. The Member began occasionally referring to Child 5 as his best friend, only after Child 5 called him his "BFF". The Member did not correct the Child, who "giggled" at the term, because he believed this was a temporary phase.

- d. The Member recalls pretending to bite children and “jokingly” telling them that he was going to eat them, as part of a catching game played outside in the yard. He acknowledges that pretending to bite the children was inappropriate and unprofessional and regrets causing Child 5 to seek reassurance from other staff.

Admissions of Professional Misconduct

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

- a. The Member physically abused a child who was under his professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
- b. The Member verbally abused a child who was under his professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3);
- c. The Member psychologically or emotionally abused a child who was under his 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 his professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College’s Standards of Practice;

- v. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or he failed to understand that his conduct reflects on him as a professional and on his profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - vi. The Member failed to understand that he is responsible for maintaining and managing professional relationships with children, contrary, contrary to Standard V.B.1 of the College's Standards of Practice;
 - vii. The Member failed to understand that boundary violations with children, include sexual misconduct and non-sexual boundary violations, and failed to understand that non-sexual boundary violations can be emotional, physical, social or financial, contrary to Standard V.B.4 of the College's Standards of Practice; and/or
 - viii. The Member failed to establish and maintain clear and appropriate boundaries in professional relationships with children under his professional supervision, contrary to Standard V.C.1 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.

The Panel received a written plea inquiry, 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 of misconduct as defined in subsection 33(2) of the ECE Act in the Notice of Hearing were supported by the facts set out in the Agreed Statement of Facts and admitted to by the Member.

College Counsel submitted that the facts demonstrate that the Member engaged in forceful and aggressive conduct towards a young child, disregarding the child's social, mental and emotional well-being. He failed to support the sense of well-being, belonging, and safety of the child and the other children in the room, and to work with other staff to make the child feel safe.

College Counsel submitted and the facts demonstrate that over a course of time, and in two separate Child Care Programs, the Member engaged in multiple inappropriate direct actions with children, including forceful and aggressive conduct towards Child 1 that disregarded their emotional and psychological well-being and subsequently resulted in Child 1 needing long-term therapy. In addition, the Member made inappropriate, unwarranted, and uninvited physical contact with Children 2, 3 and 4, as well as inappropriate verbal comments toward Child 5.

The College submitted that the Member failed to establish appropriate professional boundaries by saying that a child was the Member's "BFF" or "you are the baby", and that this also constitutes verbal abuse.

The Member's conduct fell below expectations of an RECE and was not developmentally appropriate. The Member failed to follow the Standards of Practice and the Centre's policies which prohibited corporal punishment and aggressive behaviour and required the Member to engage in positive child guidance practices. He failed to model professional values to the children and other RECEs and more broadly, to the profession.

The College submitted that the Member resorted to violence to address aggressive behaviour which contravened Parkwood's Policy and the ECE Act.

The College also stressed strongly that an RECE is responsible for maintaining professional relationship boundaries and that the onus is on the RECE, not the children, to display professional judgment regarding appropriate boundaries.

College Counsel stressed further that the Member failed to understand boundary violations through his verbal interaction with children and that disregarding non-sexual boundary violations is not acceptable professional practise. College Counsel stressed that boundary violations include unnecessary and unwarranted contact.

The Member failed to model professional values when he failed to consider how his conduct was being observed and affecting all of the children in the room, as well as those he interacted with directly.

RECEs are expected to be caring and empathetic and to act with integrity. The College submitted that, by his actions, the Member failed to engage in supportive and respectful interactions with children under his care.

College Counsel submitted that the Member failed to establish a caring relationship and to respond to the needs of the Child by maintaining a safe, healthy and inviting learning environment. Further, the Member failed to know, understand and abide by legislation, policies and procedures relevant to the profession and to make decisions and provide positive behavior guidance in the best interest of the children.

The College submitted that the Member failed to model professional behaviour with children and he failed to understand that his conduct reflects on the Members of his profession at all times. His conduct in these instances was disgraceful, dishonourable, unprofessional and clearly unbecoming.

The Member made no submission on liability, but agreed that he had committed the acts of professional misconduct as outlined in the Notice of Hearing.

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 him guilty of professional misconduct. The Panel found that the College established that it was more likely than not that the Member engaged in the acts of misconduct as alleged.

The Panel finds that the evidence established that the Member physically, verbally and emotionally abused children under his care, and he failed to engage in supportive and respectful interactions. RECEs are required to be caring and empathetic and to act with integrity, and to comply with the Standards of Practice of the profession.

By forcefully and aggressively interacting with children, by engaging in improper and unwarranted touching of children, and by singling out some children for favoritism, he failed to maintain the standards of the profession.

By his conduct, the Member failed to demonstrate knowledge and use a range of strategies that support ongoing positive interactions with children and families as required by Standard I.B.2. He failed to engage in supportive and respectful interactions with a child under his care, contrary to Standard I.C.2. Through his actions, he neglected to work in partnership with children, families and other RECEs to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion which is required by Standard III.C.1.

The Panel had concerns with the Member's lack of knowledge regarding professional boundary violations and specifically non-sexual boundary violations, in contravention of Standard V.B.4, and the effect the Member's actions had on not only the children he was interacting with, but also on other children who witnessed the events.

The Member's conduct demonstrated that he did not comply with Standard IV.B.1, which required him to know, understand and abide by legislation, policies and procedures relevant to the profession and to make decisions and provide positive behavior guidance in the best interest of the children. Through his actions, the Member did not model professional behaviour with children and other RECEs in contravention of Standard IV.C.4.

The College's Code of Ethics requires RECEs to make the well-being, learning and care of children their foremost responsibility. It requires them to value the rights of all children in their care, and create learning environments where all children can experience a sense of security and belonging. The Panel finds that the Member breached the Code of Ethics and all of the above-mentioned Standards. The Panel finds that the Member failed to model professional values and behaviours with children. His conduct, as outlined above, would clearly be regarded by members of the profession as disgraceful, dishonourable and unprofessional. It reflects negatively on the Member and the profession and would also constitute conduct unbecoming a member of the profession.

The Panel finds that the facts as presented support the finding that the Member engaged in all of the acts of misconduct alleged and admitted to in the Agreed Statement of Facts.

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:

Reprimand

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.

Suspension

2. Directing the Registrar to suspend the Member's certificate of registration for a period of
 - a. 12 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.

Terms, Conditions And Limitations

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 his own expense, the following course(s) (subject to the Director's pre-approval):
 - i. Positive intervention strategies;
 - ii. Anger management;
 - iii. Professional boundaries in interactions and communications with children;
and
 - iv. Boundary violations (contained within the College's Sexual Abuse Prevention program).
- 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 his 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 two 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 he 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 his 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 his 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.

Costs

- 4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, within ten months of the date of this Order.

Counsel for the College asked that the Proposed Order be amended to allow the reprimand to be delivered within 60 days of the hearing. The Member agreed to this change.

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 his conduct was unacceptable. The Proposed Order would assist in rehabilitating the Member and ensure that he learned fully from his 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.

The College submitted that this case dealt with both abusive conduct and boundary violations. College Counsel noted that physical abuse is one of the most common kinds of misconduct before the College. College Counsel further notes that this was the first time where the Discipline Committee has dealt with non-sexual boundary violations. This provides a unique opportunity to communicate to the profession regarding non-sexual boundaries and appropriate relationships with children. College Counsel stated that the College must protect young and vulnerable children whose safety will be entrusted to RECE's.

The College indicated that there were eight aggravating factors in this case:

1. The incidents involved preschool children who are more vulnerable due to their young age.
2. The interaction with Child 1 was forceful and amounted to prohibited corporal punishment. This conduct stopped only when another staff intervened.
3. The conduct caused emotional harm; in addition to crying, Child 1 experienced long-term anxiety which required therapy. Child 1 struggled to attend the Centre.
4. The Member engaged in abusive conduct despite receiving guidance regarding positive interaction strategy.
5. The Member demonstrated a pattern of violating professional boundaries with children. These boundary violations included inappropriate physical conduct, kissing, rubbing and tickling.
6. The Member ignored repeated instructions not to hold children in his lap and tickle them.
7. The Member used inappropriate language to interact and describe relationships with children.

8. The conduct occurred in the presence of other children which could negatively impact their well-being. Children were exposed to the Member labelling classmates with terms indicating favouritism.

The College submitted that the mitigating factors included the Member's guilty plea. By agreeing to the facts and penalty, the Member saved the College the time and expense of a contested hearing. This also demonstrated that the Member had insight into his conduct and a willingness to improve by agreeing to the remediation. The Member also has no prior history of misconduct with the College. It is important to note that the suspension will stand until the coursework is completed.

The College added that the proposed suspension was for a minimum of 12 months and will continue until the Member completes the extensive coursework that is proposed. This adds an additional layer of protection for the public while satisfying the need to rehabilitate the Member before the Member returns to practise. Additionally, before the Member returns to practise, the Member must engage in a mentoring relationship with a mentor who is approved by the College. The combination of coursework and mentoring will provide the Member with a renewed understanding of his professional obligations so he can conduct himself in a manner becoming of a member of the profession. 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 it would bring the administration of justice into disrepute or would otherwise not be in the public interest.

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

1. *College of Early Childhood Educators v Rosie Jameak Black*, 2023 ONCECE 1
2. *College of Early Childhood Educators v Yujie Chen*, 2022 ONCECE 15
3. *Ontario College of Teachers v Warland*, 2021 ONOCT 77
4. *Ontario College of Teachers v Bennett*, 2021 ONOCT 107

College Counsel submitted that while these cases were not identical to the case before the Panel, reviewing them would reassure the Panel that careful thought and consideration was given to the joint submission on penalty and that the Proposed Order 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 agreed to the Proposed Order and did not make any further submissions.

PENALTY DECISION

The Panel accepted the joint submission on penalty and makes the following order as to penalty:

Reprimand

1. The Member is required to appear before a Panel of the Discipline Committee to be reprimanded within 60 days following the hearing of this matter.

Suspension

2. The Registrar is directed to suspend the Member's certificate of registration for a period of
 - a. 12 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.

Terms, Conditions And Limitations

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 his own expense, the following course(s) (subject to the Director's pre-approval):
 - i. Positive intervention strategies;
 - ii. Anger management;
 - iii. Professional boundaries in interactions and communications with children;
and
 - iv. Boundary violations (contained within the College's Sexual Abuse Prevention program).
- 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 his 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 he 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 his 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 his 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 Proposed Order addresses the principles of specific and general deterrence, rehabilitation, and ensures the confidence and protection of the public.

The Panel recognizes this was a joint submission and as such, we were required to accept it as we did not find that it brought the administration of justice into disrepute. However, the Panel renewed its concern at the increasing number of discipline cases involving physical abuse. The Panel was also concerned about the nature of this Member's behaviour and the boundary violations. The Panel was particularly concerned by the nature of the conduct the number of children involved and the fact that the conduct represented a pattern of behaviour. It is the obligation of RECEs to treat all children with respect, dignity and create environments where all children can safely experience a sense of belonging and inclusion. The Panel wants to reinforce that physical abuse and boundary violations with children, will not be tolerated and urges the College to continue seeking more severe penalties in the future for this conduct.

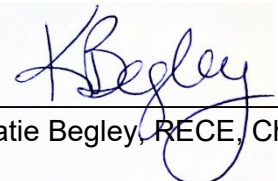
ORDER AS TO COSTS

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 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 ten months of the date of this 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

September 8, 2023

Date