

**NOTICE OF PUBLICATION BAN**

In the matter of College of Early Childhood Educators and Magdelene Vasanthkumar 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  
Stacee Stevenson, RECE

<b>BETWEEN:</b>	)	
	)	
	)	
COLLEGE OF EARLY	)	Vered Beylin
CHILDHOOD EDUCATORS	)	For the College of Early Childhood Educators
	)	
and	)	
	)	
MAGDELENE VASANTHKUMAR	)	Not present and not represented
REGISTRATION # 28111	)	
	)	
	)	
	)	
	)	Elyse Sunshine,
	)	Rosen Sunshine LLP
	)	Independent Legal Counsel
	)	
	)	Heard: October 12, 2023

## **DECISION AND REASONS**

This matter was heard by a two-member panel of the Discipline Committee (the “Panel”) of the College of Early Childhood Educators (the “College”) on October 12, 2023. The third appointed panel member was unable to attend due to a sudden illness. No objection to the matter proceeding with the two-member Panel was made, since the matter was proceeding by way of an agreement between the parties on the facts with a joint submission on penalty. 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.

## **MEMBER’S NON-ATTENDANCE AT THE HEARING**

Magdelene Vasanthkumar (the “Member”) was not present for the hearing. Counsel for the College advised that she was not expecting the Member to attend and that the Member was agreeable to the matter proceeding in her absence. Counsel for the College also provided evidence in the form of affidavits with copies of emails outlining the College’s communications with the Member about the hearing. The evidence provided by the College showed that the College had informed the Member of the purpose, date, time, and location of the hearing and that the hearing could proceed in the Member’s absence.

The Panel was satisfied that the Member had been informed of the purpose, date, time and location of the hearing. The Panel was further satisfied that it had continuing jurisdiction over the Member, even though her membership has been suspended for non-payment of fees. While generally, the Member’s non-attendance would mean the Member is deemed to contest the allegations, the College advised that the matter would be proceeding by way of agreement. Accordingly, the Panel determined that the hearing could proceed in the Member’s absence.

## **PUBLICATION BAN**

The Panel ordered a publication ban following a motion by College Counsel 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 September 22, 2023, (Exhibit 1) which provided as follows:

1. At all material times, the Member was a member of the College and was employed as an Early Childhood Educator at BrightPath Kids, located in Maple, Ontario (the “Centre”).

### **The Incidents**

2. Between on or about January 4, 2021 and February 3, 2021, the Member engaged in the following aggressive, forceful and/or demeaning conduct towards five toddlers whom she was responsible for supervising in the Centre’s toddler room:
  - a. On multiple occasions, between on or about January 4 and January 11, 2021, the Member hit Child 1 on the head, pulled their hair, twisted their ears, and pulled them roughly by his arms, striking their face and body, including but not limited to as follows:
    - i. On or about January 4, 2021, at approximately 9:08 a.m., the Member dragged Child 1 across the classroom and sat them on the floor. The Member then hit the top of Child 1’s head with an open hand. Moments later, the Member walked by Child 1 and hit them on the back head, causing their head to jerk forward. Child 1 cried as a result of the Member’s conduct.
    - ii. On or about January 4, 2021, about half an hour after the incident described paragraph 2(a)(i), the Member was seated on a stool, and Child 1 was

standing beside her. The Member pulled Child 1 down to a seated position by their arm and then hit them on the head.

- iii. On or about January 4, 2021, about half an hour after the incident described in paragraph 2(a)(ii), several children were lined up by the classroom door waiting to go outside. The Member opened the door and Child 1 began to walk out. The Member then grabbed Child 1 by their hair and dragged them back into the room to let another child go outside first.
  - iv. On or about January 4, 2021, at approximately 4:40 p.m., the Member was sitting on a small couch in front of a bookshelf. She leaned forward, forcefully grabbed Child 1, and sat them between her knees and feet in front of her. Child 1 cried and leaned forward. The Member then grabbed Child 1's ear and dragged them backward by the ear. As a result of the Member's conduct, Child 1 cried and felt pain.
  - v. On or about January 5, 2021, at approximately 4:52 p.m., Child 1 was kneeling on the floor. The Member quickly ran to them, striking them with a closed fist on the back of the head and then pushed their head towards the floor such that Child 1 needed to catch themselves with their arms. The Member then grabbed Child 1 by the arm, dragged them across the classroom, and roughly sat them on the floor. A short time later, the Member hit Child 1 on the arm or shoulder area, after they reached for an item another child was holding.
  - vi. On or about January 6, 2021, at approximately 3:04 p.m., the Member grabbed and/or twisted Child 1's ear as Child 1 was playing with toys. A short time later, the Member walked behind Child 1 and kned them to direct them to walk, causing Child 1 to stumble and begin to fall. The Member then grabbed Child 1 by the hair and pulled them up.
- b. On multiple occasions, between on or about January 4 and January 12, 2021, the Member hit Child 2's arm, hit Child 2 on the back of the head with an open hand, dragged Child 2 by the arm and tossed them onto the floor, including but not limited to as follows:



5. Despite observing A.K.D.'s conduct, described in paragraph 4 above, the Member failed to do the following:
  - a. She did not take steps to prevent the abusive conduct she observed from reoccurring and ensure the safety and well-being of the children in the toddler room;
  - b. She did not report A.K.D.'s conduct to the Children's Aid Society;
  - c. She did not report A.K.D.'s conduct to the Centre's management, in contravention of the Centre's Duty to Report policy.

### **Criminal Court Proceedings**

6. On June 30, 2022, the Member pleaded guilty to and was found guilty of five counts of Assault, in relation to the incidents described in paragraph 2 above. The Member was sentenced to a 15-months conditional sentence. Additionally, the judge imposed a three years' probation and a DNA order.

### **Professional Misconduct Alleged**

7. By engaging in the conduct set out in paragraphs 2–6 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 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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children's well-being, contrary to Standard I.B.4 of the College's Standards of Practice;
- iii. 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;
- iv. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
- v. 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;
- vi. The Member failed to observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
- vii. 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
- viii. 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.
- ix. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, including to the College in relation to conduct of another RECE, contrary to Standard IV.C.11 of the College's Standards of Practice;

- x. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
- xi. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the Children's Aid Society, contrary to Standard VI.C.8 of the College's Standards of Practice;
- 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);
- f. The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
- g. 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 advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 2), which provided as follows:

### **The Member**

1. The Member has had a certificate of registration with the College for approximately 11 years. She is 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 an RECE at the Centre.

### **The Incidents**

3. Between January 4, 2021 and February 3, 2021, the Member engaged in the following aggressive, forceful and/or demeaning conduct towards five toddlers whom she was responsible for supervising in the Centre's toddler room:

- a. On multiple occasions between January 4 and January 11, 2021, the Member hit Child 1 on the head, pulled their hair, twisted their ears, and pulled them roughly by their arms, striking their face and body, including but not limited to as follows:
- i. On January 4, 2021, at approximately 9:08 a.m., the Member dragged Child 1 across the classroom and sat them on the floor. The Member then hit the top of Child 1's head with an open hand. Moments later, the Member walked by Child 1 and hit them on the back head, causing their head to jerk forward. Child 1 cried as a result of the Member's conduct.
  - ii. On January 4, 2021, about half an hour after the incident described paragraph 3(a)(i), the Member was seated on a stool, and Child 1 was standing beside her. The Member pulled Child 1 down to a seated position by their arm and then hit them on the head.
  - iii. On January 4, 2021, about half an hour after the incident described in paragraph 3(a)(ii), several children were lined up by the classroom door waiting to go outside. The Member opened the door and Child 1 began to walk out. The Member then grabbed Child 1 by their hair and dragged them back into the room to let another child go outside first.
  - iv. On January 4, 2021, at approximately 4:40 p.m., the Member was sitting on a small couch in front of a bookshelf. She leaned forward, forcefully grabbed Child 1, and sat them between her knees and feet in front of her. Child 1 cried and leaned forward. The Member then grabbed Child 1's ear and dragged them backward by the ear. As a result of the Member's conduct, Child 1 cried and felt pain.
  - v. On January 5, 2021, at approximately 4:52 p.m., Child 1 was kneeling on the floor. The Member quickly ran to them, striking him with a closed fist on the back of the head and then pushed their head towards the floor such that Child 1 needed to catch themselves with their arms. The Member then grabbed Child 1 by their arm, dragged them across the classroom, and roughly sat them on the floor. A short time later, the Member hit Child 1 on the arm or shoulder area, after they reached for an item another child was holding.

- vi. On January 6, 2021, at approximately 3:04 p.m., the Member grabbed and/or twisted Child 1's ear as they were playing with toys. A short time later, the Member walked behind Child 1 and kned them to direct them to walk, causing them to stumble and begin to fall. The Member then grabbed Child 1 by the hair and pulled them up.
    - b. On multiple occasions between January 4 and January 12, 2021, the Member hit Child 2's arm, hit them on the back of the head with an open hand, dragged them by their arm and tossed them onto the floor, including but not limited to as follows:
      - i. On January 5, 2021, at approximately 11:30 a.m., the Member hit Child 2 on the back of the head, causing their head to jerk forward.
    - c. On multiple occasions between January 5 and January 8, 2021, the Member pinched Child 3's cheeks, hit them on the head, grabbed and pushed them, as well as dragged them on the floor, including but not limited to as follows:
      - i. On January 5, 2021, at around 2:30 p.m., the children were seated around the dining table. The Member hit Child 3 on the back of the head causing their head to jerk forward. The Member then grabbed Child's 3's arm and hit their hand on the table. As a result of the Member's conduct, Child 3 began to cry and flail their arms. The Member then restrained Child 3's arms, while they appeared to be in distress.
    - d. On multiple occasions between January 7 and February 3, 2021, the Member dragged Child 4 across the classroom, pulled them by the arm, pulled their hair and twisted their wrist, including but not limited to as follows:
      - i. On January 11, 2021, at approximately 10:06 a.m., the Member grabbed Child 4 by the hair behind their ear and pulled on it, causing Child 4 to fall to the floor crying. The Member then walked away from Child 4, leaving them crying on the floor.
    - e. On February 2, 2021, the Member struck Child 5 with an open palm on the back of the head.
  - 4. On multiple occasions on October 14, 2020 and January 4, 5 and 11, 2021, the Member further engaged in aggressive, forceful and/or demeaning conduct towards toddlers she was

responsible for supervising. Among other things, the Member hit children, pulled and repositioned them, causing children to cry and/or be upset.

5. On multiple occasions between January 7 and January 8, 2021, the Member observed A.K.D. (RECE) engage in aggressive, forceful and/or abusive conduct towards the toddlers in the Centre's toddler room. Among other things, the Member observed that A.K.D pulled and/or dragged children by their arms or clothes, grabbed and/or pinched children's cheeks and/or ears, roughly repositioned children and/or removed items from them, causing the children to cry and be upset.
6. Despite observing A.K.D.'s conduct, described in paragraph 5 above, the Member failed to do the following:
  - a. She did not take steps to prevent the abusive conduct she observed from reoccurring and ensure the safety and well-being of the children in the toddler room;
  - b. She did not report A.K.D.'s conduct to the Children's Aid Society ("CAS");
  - c. She did not report A.K.D.'s conduct to the Centre's management, in contravention of the Centre's Duty to Report policy.

### **Criminal Court Proceedings**

7. On June 30, 2022, the Member pleaded guilty to and was found guilty of five counts of Assault, in relation to the Incidents described in paragraph 3 above. The Member was sentenced to a 15-months conditional sentence. Additionally, the judge imposed a three-year probation and a DNA order.

### **Additional Information**

8. A.K.D. and P.K. (RECE) were present in the classroom and observed several of the Incidents described in paragraphs 3 and 4 above. Despite their observations, A.K.D and P.K. did not intervene to ensure the safety and well-being of the Children, and failed to report the conduct to CAS and the Centre's management.

9. The Incidents described in paragraphs 3 to 5 above were captured on video footage. They were discovered after the Centre's management watched a live stream on February 3, 2021, which prompted the review of further footage and the Centre's report to CAS.
10. The College is not aware of any physical marks or injuries to any of the Children as a result of the Incidents.
11. CAS conducted a joint investigation with Halton Regional Police and verified that the Member engaged in physical maltreatment towards several Children, resulting in risk that the Children were likely to be harmed.
12. The Ministry of Education issued a Compliance Order against the Member for engaging in a prohibited practice.
13. During the plea and sentencing hearing, victim impact statements were filed with the court by parents of three children. Child 2's mother highlighted the emotional distress she and her husband felt upon discovering the abuse Child 2 suffered and the fear and anxiety she continues to experience when she drops off Child 2 at the Centre.
14. The terms of the conditional sentence and the probation order placed a significant restriction on the Member's ability to practice the profession of early childhood education. She was ordered not to be employed in a congregate care setting or involved in the care of children for remuneration, including any volunteer work.
15. The Member was terminated from her position as an RECE at the Centre as a result of the Incidents.

### **Admissions of Professional Misconduct**

16. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 7 above, and as defined in subsection 33(2) of the ECE 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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children's well-being, contrary to Standard I.B.4 of the College's Standards of Practice;
  - iii. 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;
  - iv. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
  - v. 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;
  - vi. The Member failed to observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
  - vii. 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
  - viii. 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.

- ix. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, including to the College in relation to conduct of another RECE, contrary to Standard IV.C.11 of the College's Standards of Practice;
  - x. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
  - xi. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the CAS, contrary to Standard VI.C.8 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);
  - f. The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
  - g. 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 was satisfied that the Member's admission was voluntary, informed and unequivocal.

## **SUBMISSIONS OF THE PARTIES ON LIABILITY**

The College submitted that the Member was guilty of professional misconduct, and that all of the allegations of misconduct contained in the Notice of Hearing were supported by the facts set out in the Agreed Statement of Facts.

College Counsel submitted that the facts demonstrate that during the period between October 2020 and February 2021, the Member engaged in forceful and aggressive conduct with children in the toddler room, disregarding the children's physical, emotional and psychological well-being. She failed to support the sense of well-being, belonging, and safety of all the children in the room, and to work with other staff to make the children feel safe. The Member's conduct fell far below the expectations of RECE's, and was completely inappropriate. She failed to follow numerous Standards of Practice and the Centre's policies and expectations.

In addition, the Member witnessed and failed to intervene in and report another RECE's misconduct, breaching her obligation to the children's safety and well-being.

College Counsel further stated that the evidence demonstrated that the Member completely disregarded her responsibility to know and abide by legislation, policies and procedures relevant to her professional practice.

The Member also failed to be knowledgeable about a range of strategies that support ongoing positive interactions with children. College Counsel noted that there is no justification for physical force or verbal abuse as a mechanism for guiding children's behaviour. College Counsel submitted that the Member's conduct failed to model professional values and behaviours to the children. She failed to model professional behaviour and intervene when she witnessed other colleagues' unprofessional conduct. She failed to understand that as an RECE in the classroom, she is responsible for the children's safety and well-being. The College submitted that the Member's conduct in these instances was disgraceful, dishonourable, unprofessional and clearly unbecoming.

The Member was not present and made no submission on liability.

## **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 all the allegations set out in the Notice of Hearing are supported by the facts contained in the Agreed Statement of Facts presented by the parties. The Panel found that the College met its onus and established that it was more likely than not that the Member engaged in the acts of misconduct as alleged.

Specifically, the Panel found that between October 2020 and February 2021, while the Member was employed at the Centre, she engaged in aggressive and forceful conduct and emotional abuse towards children in her care on multiple occasions.

The Panel finds that as a result of this conduct, the Member physically, verbally, psychologically and emotionally abused children, and she failed to engage in supportive and respectful interactions with children under her care.

The Panel found that the Member engaged in physical maltreatment of children when on multiple occasions, the Member forcefully and aggressively grabbed children by their arms and wrists to get them to comply. The Member further engaged in the specified acts of misconduct when she pinched children's cheeks, pulled children's hair, twisted children's ears, hit the children's heads (both open hand and closed fist) and kneed, pulled and/or dragged children.

The Panel found that the Member's conduct left lasting effects on the children and families both psychologically and emotionally.

The Panel further found that the Member failed to model professional values, beliefs and behaviours with children and colleagues, and she failed to understand that her conduct reflects on her as a professional and on her profession at all times. The Member acted unprofessionally in the presence of colleagues. The Member's conduct and decision to not report the misconduct of another RECE exposed the children to additional, prolonged abuse. The Panel was satisfied, based on the evidence contained in the Agreed Statement of Facts and the Member's admissions, that the Member engaged in all of the acts of misconduct alleged in the Notice of Hearing.

## **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 within 60 days of this Order.
2. Directing the Registrar to immediately revoke the Member's certificate of registration.
3. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid in accordance with the following payment schedule:
  - a. \$100 thirty (30) days following the date of the Order;
  - b. \$100 sixty (60) days following the date of the Order;
  - c. \$100 ninety (90) days following the date of the Order;
  - d. \$100 one hundred and twenty (120) days following the date of the Order;
  - e. \$100 one hundred and fifty (150) days following the date of the Order;
  - f. \$100 one hundred and eighty (180) days following the date of the Order;
  - g. \$100 two hundred and ten (210) days following the date of the Order;
  - h. \$100 two hundred and forty (240) days following the date of the Order;
  - i. \$100 two hundred and seventy (270) days following the date of the Order; and
  - j. \$100 three hundred (300) days following the date of the Order.

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

Counsel for the College submitted that the Proposed Order was appropriate in the circumstances and would send a message broadly to the profession and to the public at large that the Member's conduct was unacceptable and would not be tolerated. Counsel further submitted that it would discourage other RECEs from engaging in similar conduct and it would send a specific message to the Member that her conduct was unacceptable. The Proposed Order 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 indicated that there were nine aggravating factors in this case:

1. The Member's conduct was a pattern of behaviour over a lengthy period of time, approximately four months.
2. The age of the children made them more vulnerable to the Member's conduct because toddlers are unlikely to report the incidents.
3. On multiple occasions, the Member's conduct included violence and use of force.
4. The physical abuse involved multiple children and resulted in a risk of harm.
5. The Member's conduct was detrimental to the children's emotional well-being.
6. The Member's abusive conduct occurred in front of the other children in the classroom, and eroded their sense of security and belonging.
7. On multiple occasions the Member witnessed and ignored abuse towards the children by A.K.D and failed to stop that individuals' conduct, breaching the Member's obligation to ensure the safety of all children in the classroom, which compounded her misconduct.
8. The Member's own misconduct and her failure to report the misconduct of another RECE in the room had a profound and lasting emotional impact on the families.
9. The Member's conduct seriously reflects negatively on the profession and erodes the trust parents put in RECE's.

The College submitted that the mitigating factors included the Member's guilty plea but stated that nothing short of a revocation could suffice to address the Member's conduct. By agreeing to the facts and penalty, the Member saved the College the time and expense of a contested hearing. The Member also had been registered with the College for approximately 11 years without any prior reported history of misconduct, which was also a mitigating factor.

The College provided the Panel with two cases to reassure the Panel that the Proposed Order was consistent with penalties imposed on other members who had engaged in similar misconduct:

*College of Early Childhood Educators v Diala Mahfouz, 2023 ONCECE 15*

*College of Early Childhood Educators v Sheryl Anne Grant, 2023 ONCECE 6*

The College submitted that considering these cases and the unique aggravating and mitigating factors in this case, would reassure the Panel that the Proposed Order was appropriate in these circumstances.

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

The Member agreed to the Proposed Order but did not make any submissions.

### **PENALTY DECISION**

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

1. The Member is required to appear before the Panel to be reprimanded within 60 days from the date of the Order.
2. The Registrar is directed to immediately revoke the Member's certificate of registration.

### **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, and ensures the confidence of the public in the ability of the College to regulate the profession as well as protection of the public.

The Member's conduct towards several toddlers was abhorrent and reprehensible. The Member's multiple, repeated acts of physical abuse warrant an order of the Panel's most severe penalty available: revocation. This case was particularly problematic and the Panel agrees that no other penalty but revocation would suffice. Not only has the Member's conduct had a grave impact on the children, but it has also jeopardized the public's trust in the profession. The Member's revocation will serve as a specific and general deterrent, by sending a clear message to the Member and the profession that members must exercise sound professional judgment and must refrain from engaging in unwanted touching of students. Revocation will also serve to protect the public interest by removing the Member from being able to hold themselves out as an RECE, thereby limiting the Member's access to children or potential victims of this kind of conduct.

The Discipline Committee has previously expressed concern at the increasing number of discipline cases involving physical abuse, and the Panel reiterates this concern. 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 wishes to stress and reinforce that physical, verbal, emotional and psychological abuse will not be tolerated and urges the College to continue seeking severe penalties in future cases involving such conduct.

The Panel also wishes to state that it was further concerned by the Member's failure to report the abuse she observed on the part of her colleague (although perhaps this is not surprising given the terrible abusive conduct that the Member herself was engaged in). However, members of the profession should take note that their professional and legal obligation is to report any observed abuse and any failure to do so will have significant legal consequences.

## **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 \$1000 to be paid in accordance with the following payment schedule:

- a. \$100 thirty (30) days following the date of the Order;
- b. \$100 sixty (60) days following the date of the Order;
- c. \$100 ninety (90) days following the date of the Order;
- d. \$100 one hundred and twenty (120) days following the date of the Order;
- e. \$100 one hundred and fifty (150) days following the date of the Order;
- f. \$100 one hundred and eighty (180) days following the date of the Order;
- g. \$100 two hundred and ten (210) days following the date of the Order; and
- h. \$100 two hundred and forty (240) days following 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, Chair

October 18, 2023  
Date