

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Emily Victoria McIntyre 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: Krista Johnson, RECE, Chair
Kim Cole, RECE
Richard Filion, DDS

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
EMILY VICTORIA MCINTYRE)	Self-represented
REGISTRATION # 67185)	
)	
)	
)	Elyse Sunshine
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: February 20, 2024

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 February 20, 2024. 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 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, of 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 January 25, 2024, (Exhibit 1) which provided as follows:

1. At all material times, Emily Victoria McIntyre (the “Member”) was a member of the College and was employed as a Registered Early Childhood Educator (“RECE”) at Spring Valley YMCA, in Hamilton, Ontario (the “Centre”).
2. On or about the afternoon of June 15, 2022, the Member and an early childcare assistant were supervising a group of three infants in the Centre’s infant room. At approximately 4:50 p.m., the Member failed to notice that a 14-month-old child (the “Child”), left the room and walked out of the Centre.

3. The Child walked a distance of approximately 30–40 feet from the Centre’s entrance to the parking lot. At approximately 4:56 p.m., another staff member noticed the Child tumble onto all fours in the parking lot, while at least one vehicle was moving nearby. That staff member then brought the Child back into the Centre. The Member failed to realize that the Child was missing until shortly before the Child was returned.
4. By engaging in the conduct set out in paragraphs 2–3 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the 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; and/or
 - 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 advised the Panel that an 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 five years. She is in good standing with the College and does not have a prior discipline history with the College.
2. At all material times, the Member was employed as an RECE at the Centre.

The Incident

3. On the afternoon of June 15, 2022, the Member and an early childcare assistant were supervising a group of three infants in the Centre's infant room. At approximately 4:50 p.m., the Member failed to notice that the Child left the room and walked out of the Centre through the front door, which briefly remained open after a parent exited.
4. The Child walked a distance of approximately 30–40 feet from the Centre's entrance to the parking lot, where there was at least one moving vehicle. At approximately 4:56 p.m., another staff member noticed the Child walking across the parking lot and tumble onto all fours. That staff member then brought the Child back into the Centre.
5. Shortly before the Child was returned to the Centre, the Member realized that the Child was missing and began searching for them.

Additional Information

6. The Child appeared to be “unharmful” and “not in any emotional distress” when they were returned to the Centre.

7. The Incident was reported to Hamilton Children's Aid Society ("CAS"). CAS investigated the incident and verified that the Member inadequately supervised the Child.
8. On February 1, 2021, the Centre's management issued a warning letter to the Member regarding her supervision practices. Among other things, the letter reminded the Member of the importance of ensuring the whereabouts and safety of all children under her supervision.
9. The Member's employment at the Centre was terminated as a result of the Incident.

Admissions of Professional Misconduct

10. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3–5 above, and as defined in subsection 33(2) of the ECE Act, in that:
 - a. The Member failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to 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; and/or
 - 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 the facts and the Member's admissions in the Agreed Statement of Facts were sufficient to make a finding of professional misconduct against the Member.

The College submitted that the evidence established that the Member failed to adequately supervise an infant that was under her direct care and responsibility. The College further submitted that although another non-RECE staff was present and was also responsible for supervising the Child, the Member had an individual responsibility to ensure that every single child in the room was adequately supervised. The College noted that despite any failings on the part of the Member's non-RECE colleague, there was a significant failure on the part of the Member, who was the only RECE qualified in the room.

The College asserted that the Member's conduct was also a breach in the standards of the profession which exposed the Child to potential risk of physical harm, particularly because the Child had wandered to the parking lot where there was at least one moving car. The College submitted that the Member's key failure was that she did not observe and monitor the learning environment or ensure that the Child received appropriate supervision based on the Child's age, development and the environment in the room.

The College submitted that the Member failed to act as a role model for her colleagues through her conduct. In addition, the College submitted that the Member showed a serious disregard for her professional obligations which was unprofessional and clearly unbecoming of a Member of the College.

The Member did not make any submissions.

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admission and found her guilty of professional misconduct as alleged in the Agreed Statement of Facts and the Notice of Hearing

The Panel found that the Member failed to properly supervise a child under her supervision and notice that a 14-month-old infant left the room through a door that remained open after a parent had left and entered the parking lot. The Member's carelessness and lack of good judgment caused the Child to be unattended and consequently found in the Centre's parking lot with at least one moving car. Such conduct constitutes professional misconduct. The Member's actions were inconsistent with professional standards, irresponsible and the consequences could have been grave.

RECEs must show care and concern to the children entrusted in their care. By improperly supervising a child, positive and trusting relationships were broken with the families of the children who relied on the Member to keep their children safe. The Member's actions would reasonably be viewed by members of the profession as disgraceful, dishonourable or unprofessional and unbecoming of a professional member of the College.

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

whichever is greater.

The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.

3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:

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 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.
- b. 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.
- c. 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 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)).
- d. The Member will complete a minimum of two mentorship sessions to the satisfaction of the Director prior to 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.

- e. After a minimum of seven 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(b),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(b) and discussed the subjects set out in paragraph 3(c) 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.

Other

- g. 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.
 - h. 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 six months of the date of this Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted that allegations of misconduct relating to a failure to supervise, including where children are exposed to road related risks, are frequently considered by the Discipline Committee.

College Counsel submitted that in considering the Proposed Order, any penalty the Panel imposes must ensure the safety of young and vulnerable children. It must also maintain the public's confidence in the College's ability and willingness to regulate the conduct of its members.

The College submitted that the Proposed Order satisfies the objectives that any order must achieve. In particular, the Proposed Order achieves the goal of denouncing misconduct by sending a message to the Member, other members of the profession, and the public, that the College will not tolerate a failure to monitor the learning environment and ensure that it is safe for children. The penalty also achieves the goals of deterring this Member, and other members of the College, from engaging in this kind of misconduct in the future. The College also submitted that the Proposed Order is consistent with those ordered in other similar cases, taking into account the specific aggravating and mitigating circumstances in this case.

The College submitted that there were four aggravating factors in this case:

1. The unsupervised Child was a 14-month-old infant. Their age made them more vulnerable to risks in the environment and so they required enhanced supervision.
2. The Child was exposed to a road related risk when they wandered into the parking lot where there was a moving car.
3. The Child was unsupervised for six minutes before being noticed by another staff member. This is a significant length of time for an infant to be unsupervised, particularly when they are alone and in a public space.
4. There was a prior concern at the Centre about the Member's supervision practises. The Member received a warning letter which should have increased the Member's awareness regarding the importance of ensuring proper supervision of all children under her supervision.

The College submitted there were two mitigating factors:

1. The Member pleaded guilty to the misconduct saving the College the time and expense of a contested hearing. The Member agreed to the Proposed Order and has indicated her desire to work with a mentor which shows insight and a willingness to improve her practice.
2. The Member does not have a discipline history with the College.

The College also submitted that the Child was not physically harmed and there was no evidence to suggest there was an emotional impact on the Child.

The College provided three cases to assure the Panel that the Proposed Order was within the range of penalties in similar cases:

1. *College of Early Childhood Educators v Navneet Kaur*, 2023 ONCECE 21
2. *College of Early Childhood Educators v Natalia Catalina Gomez*, 2022 ONCECE 17
3. *College of Early Childhood Educators v Mvidi Helene Batulapuka*, 2021 ONCECE 7

The College also submitted that the costs in the Proposed Order were jointly agreed to by the parties, and that they were reasonable. Therefore, they should be ordered by the Panel.

Submissions of the Member on Penalty and Costs

The Member did not make any submissions.

PENALTY DECISION

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

1. The Member is required to appear before the Panel to be reprimanded within 60 days from the date of the Order.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of
 - a. six months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) to 3(d) below,

whichever is greater.

The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practising or suspended the Member for any other reason.

3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:

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.
- b. 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,
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 - iv. the Panel's Decision and Reasons.

- c. 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 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)).
- d. The Member will complete a minimum of two mentorship sessions to the satisfaction of the Director prior to 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.
- e. After a minimum of seven 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(b),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(b) and discussed the subjects set out in paragraph 3(c) 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.

Other

- g. 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.
- h. 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 RECEs. 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 suspension and the requirement to participate in a mentoring relationship will maintain the confidence of the public. The Panel feels that rehabilitation of the Member and her re-entrance into professional practise is possible with the completion of the Order. The Member showed remorse and a willingness to make the necessary changes in her professional practise to avoid a recurrence.

The Panel feels the consequences of the Order are suitable to act as a general deterrent for other members and will deter this Member from engaging in similar conduct in the future. The primary role of RECEs is to ensure the safety of Ontario children and the College will not tolerate this kind of behaviour from its members. The requirement for the Member to undergo the suspension and mentoring will reassure the public that this Member will be rehabilitated before she returns to practise.

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 six months of the date of this Order.

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



Krista Johnson, RECE, Chair

March 6, 2024

Date