

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Sophia Tsapoitis this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of, or any information that could identify, any person who is under 18 years old and is a witness in the hearing, or the subject of evidence in the hearing or under subsection 35.1(3) of the *Early Childhood Educators Act, 2007*.

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF EARLY CHILDHOOD EDUCATORS**

PANEL: Geneviève Breton, Chair
Kim Cole, RECE
Ann Hutchings, RECE

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
SOPHIA TSAPOITIS)	Self-represented
REGISTRATION # 67659)	
)	
)	
)	Lonny Rosen,
)	Rosen Sunshine
)	Independent Legal Counsel
)	
)	Heard: March 22, 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 March 22, 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 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 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 February 6, 2024, (Exhibit 1) which provided as follows:

1. At all material times, Sophia Tsapoitis (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at York Professional Care and Education, located in Aurora, Ontario (the “Centre”).
2. On or about the morning of May 17, 2022, the Member was supervising a group of preschool-aged children in the Centre’s outdoor play area, including a three-and-a-half-year-old child (“the Child”). Despite being aware of the Child’s severe allergies and completing training on and review of their anaphylaxis plan four days earlier, the Member failed to serve the Child a designated substitution for a snack, and instead served them a snack containing an anaphylactic

causative agent. As a result of the Member's conduct, the Child developed symptoms which required an Epinephrine Auto-Injector (Epi-Pen) to be administered. The Child was then transported to hospital by ambulance.

3. By engaging in the conduct set out in paragraph 2 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the ECE Act, in that:
 - a) The Member failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b) The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the College's Standards of Practice;
 - c) The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and/or
 - d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

EVIDENCE

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 2), which provided as follows:

1. The Member has had a certificate of registration with the College for approximately 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 ECE at the Centre.

The Incident

3. On the morning of May 17, 2022, the Member was supervising a group of preschool-aged children in the Centre's outdoor play area, including the Child, who had a severe allergy to wheat and gluten. The Child had an anaphylaxis plan and received food substitutions for most of the meals.
4. Despite being aware of the Child's severe allergies and anaphylaxis plan, the Member failed to serve the Child a designated substitution for a snack, and instead served them a baked item which contained the anaphylactic causative agent. The Child had taken a few bites of the baked item before another staff member intervened.
5. As a result of the Member's conduct, the Child developed anaphylaxis symptoms which required an Epinephrine Auto-Injector (Epi-Pen) to be administered. The Child was then transported to the hospital by ambulance. The Child was released from the hospital later that day once their symptoms subsided.

Additional Information

6. The Member was present in the classroom a week earlier, during another anaphylaxis incident involving the Child. Following that incident, all the Centre's staff were required to complete training, review the Child's anaphylaxis plan, and sign off on the Centre's updated anaphylaxis policy. The Member completed all these requirements four days prior to the Incident.

7. The Member's employment at the Centre was terminated as a result of the Incident described above.
8. If the Member were to testify, she would advise the following:
 - a. She was overwhelmed and in distress the morning of the Incident due to personal circumstances, including a family emergency that occurred the night before, and she was feeling unwell the morning of the Incident, which impeded her ability to adequately perform her duties.
 - b. She did not feel she was "fit for work" on the day of the Incident, but did not feel comfortable calling in sick due to the pressures of the work environment.
 - c. She did not notice the paper listing food substitutions, and became confused as it was not the usual practice to give out snacks to the children while they were outside.
 - d. She acknowledges that she made a very serious error in judgment, and deeply regrets her mistake. She understands the severity of the Incident, and the importance of being vigilant of her environment, especially when handling foods containing anaphylactic causing agents.

Admissions of Professional Misconduct

9. The Member admits that she 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 failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;

- ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - iv. The Member failed to model professional values, beliefs and behaviours with children, families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.C.4 of the College's Standards of Practice;
 - v. The Member failed to support and collaborate with colleagues, contrary to Standard IV.C.6 of the College's Standards of Practice;
- c. The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and/or
 - d. The Member acted in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to the allegations in the Agreed Statement of Facts.

The Panel received a written plea inquiry (Exhibit 3) which was signed by the Member. The Panel also conducted a verbal plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

SUBMISSIONS OF THE PARTIES ON LIABILITY

The College submitted that all of the allegations of misconduct were supported by facts that were contained in the Agreed Statement of Facts and admitted to by the Member. This included that the

Member failed to adequately supervise the Child, who had known severe allergies. She failed to provide a safe and appropriate learning environment, despite having knowledge of the Child's anaphylaxis plan. As a result, the Child developed a severe reaction which required the use of an EpiPen and being transported to the hospital via ambulance.

The College submitted that the incident could have been avoided. The Member had observed the Child experience an anaphylaxis event the week before. As a result, the Center provided anaphylaxis training to all staff, including the Member.

It is clear the Member did not intend to cause harm. However, she failed to work with colleagues or ask for help when she felt she was overwhelmed and not fit for work. Her conduct constitutes a breach of the trust that families place in RECEs, and a failure to adhere to Center policies and the College's standards of practice.

The Member submitted that she was regretful for her conduct, and grateful the Child did not experience lasting harm. She also acknowledged that she should have had the foresight to say no to working that day. She understood that she had made a mistake and apologized.

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admissions 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 facts supported findings that the Member committed the acts as alleged. The Member failed to adequately supervise a Child under her care and monitor the environment to avoid exposing the Child to a known allergen. This occurred despite the fact that the Member was fully aware of the Child's severe allergies and had received training just days before. The duty to adequately and effectively supervise children is fundamental to RECEs' professional responsibility, regardless of the professional setting.

The Panel believes that this incident could have been avoided had the Member demonstrated insight into her own inability to work that day.

The Member failed in carrying out her professional responsibilities to the Child and their family. Her behavior is unbecoming of a member and reflects negatively on the RECE profession. It erodes public trust.

The Panel would like to emphasize the importance of RECEs being diligent during training sessions, especially in dealing with allergies. RECEs must demonstrate insight into their abilities to provide proper care in carrying out their duties and remain aware that a lack of self-awareness can result in a serious outcome.

POSITION OF THE PARTIES ON PENALTY

The College and the Member made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"), outlined in a Joint Submission on Penalty and Costs (Exhibit 4). 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 nine months of the date of this Order.

Submissions of the Parties on Penalty and Costs

College Counsel submitted that failure to supervise is the most common type of misconduct for which members of the College are disciplined.

College Counsel submitted that the penalty and costs order proposed in the Joint Submission reflects established sentencing principles and sends a message broadly to members of the profession and the public that the conduct at issue is unacceptable, as failure to adequately supervise can result in a child being harmed.

College Counsel further submitted that the Proposed Order would deter other members from engaging in similar conduct. It will also deter the Member from engaging in similar conduct in the future. Through the mentorship, the Proposed Order will ensure remediation and rehabilitation, and that the Member will be supported when she returns to practice.

College Counsel also submitted that the penalty must take into account the aggravating and mitigating factors, and presented four aggravating factors and three mitigating factors in this case for the Panel's consideration:

Aggravating factors

1. The incident involved a young, vulnerable child with severe allergies.

2. The Child had an anaphylaxis plan. The Member received and signed off on training just days before.
3. The Member was present during a previous anaphylaxis incident the week before. It should have increased her awareness and alerted her to the danger the would face Child if exposed to known allergens.
4. The Member's failure had an adverse impact on the Child's health. An EpiPen was administered, and the Child was transported to hospital by ambulance.

Mitigating factors

1. The Member pleaded guilty and by doing so, demonstrated insight into her conduct and willingness to take responsibility. By agreeing to the Joint Submission, she saved the College time and resources.
2. The Member did not have a prior misconduct history.
3. The Member was facing unique personal circumstances that occurred the night before. She felt overwhelmed and distressed and these circumstances affected how she performed her professional duties that morning.

College Counsel added that RECEs must act in the best interest of children by providing safe and healthy supervision. When RECEs are unfit to fulfill their duties, they must seek help or remove themselves from a situation. The College recognized the pressure RECEs face in the workplace, but submitted that the health and safety of children must always remain a top priority.

College Counsel submitted that the Proposed Order is consistent with the range of penalties given in other cases with similar misconduct, and provided five cases for the Panel's consideration:

- *College of Early Childhood Educators v Patterson, 2023*
- *College of Early Childhood Educators v Lubana, 2018*
- *College of Early Childhood Educators v Rahman, 2021*
- *College of Early Childhood Educators v Bojkov, 2024*
- *College of Early Childhood Educators v Rochon, 2023*

College Counsel argued that these cases established that the Proposed Order was appropriate given that it was proportionate and reasonable. College counsel submitted that, in the case of

joint submissions on penalty, the Panel had limited discretion and could only reject the jointly proposed penalty if it would bring the administration of justice into disrepute. The College submitted that the Proposed Order was within the range of penalties available and therefore its acceptance would not cause the public to lose trust in the College's ability to regulate its members or to bring the administration of justice into disrepute.

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,
 - 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.

REASONS FOR PENALTY

The Panel understands that a proposed penalty order 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 also be proportionate to the misconduct.

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

The Panel is aware that no two cases are exactly alike, however, reviewing earlier cases can help determine the appropriate level of penalty. The Panel considered the previous cases that were presented by College Counsel and concluded that the penalty outlined in the Proposed Order was consistent and proportionate with penalties ordered for similar misconduct in other cases.

The Panel concluded that the Proposed Order was appropriate and in the public interest. The Panel wishes to emphasize that when RECEs are faced with extenuating circumstances that affect their ability to perform their job it is their responsibility to speak up despite discomfort and/or to remove themselves from the situation. The Panel is sympathetic to the Member's situation but feels that ensuring the health and safety of children must always be the top priority.

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 nine months of the date of the Order.

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

A handwritten signature in black ink that reads "Genevieve Breton". The script is cursive and somewhat stylized.

Geneviève Breton, Chair

May 10, 2024

Date