

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Vasantha Thevakumar, 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
Richard Filion, DDS

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
VASANTHA THEVAKUMAR)	Self-represented
Registration # 23256)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: May 1, 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 May 1, 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, 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 March 19, 2024 (Exhibit 1) which provided as follows:

1. At all material times, Vasantha Thevakumar (the “Member”) was a member of the College and was employed as an Early Childhood Educator (“ECE”) at Tender Years Child Care Centre, in Ajax, Ontario (the “Centre”).
2. On or about June 6, 2022, the Member slapped a three year old child who was non-verbal (the “Child”) on the cheek, after the Child screamed and pulled the Member towards a nearby area of the preschool classroom. As a result of the Member’s conduct, the Child became upset, screamed louder and began to hit the Member.

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 physically abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.1);
 - b. The Member psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - c. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College's Standards of Practice;
 - ii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 of the College's Standards of Practice;
 - iii. The Member failed to 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
 - iv. 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.
 - d. 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

- e. The Member acted in a manner that is unbecoming of 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 13 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 June 6, 2022, the Member became frustrated with the Child and slapped them on their cheek, after the Child screamed and pulled the Member towards a nearby area of the preschool classroom.
4. As a result of the Member's slap, the Child became very upset and screamed so loudly that both the Centre's Supervisor and the cook rushed into the classroom to see what happened. When the Member attempted to console the Child, they responded by hitting her, while continuing to scream loudly.

Additional Information

5. The College is not aware of any marks or injuries to the Child as a result of the Incident.
6. The Children's Aid Society ("CAS") verified the allegations, and the Ministry of Education issued a Compliance Order against the Member.

7. On two prior occasions, the Centre provided guidance to the Member in response to inappropriate interactions with children. In May 2019, the Centre's Supervisor reminded the Member not to use physical re-direction on the children. Then, in October 2019, the Centre issued a verbal warning to the Member, reminding her that she was required to provide empathy and proper care to the children she was supervising.

Admissions of Professional Misconduct

8. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 4 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 psychologically or emotionally abused a child who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(3.2);
 - c. The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to be knowledgeable about a range of strategies that support ongoing positive interactions with children and families, contrary to Standard I.B.2 of the College's Standards of Practice;
 - ii. The Member failed to engage in supportive and respectful interactions with children to ensure they feel a sense of security and belonging, contrary to Standard I.C.2 of the College's Standards of Practice;
 - iii. The Member failed to 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
 - iv. 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.

- d. 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
- e. 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

Counsel for the College submitted that the Member was guilty of professional misconduct, including physical and emotional abuse of a child under her care. Counsel for the College further submitted that all of the allegations of misconduct are supported by the facts set out in the Agreed Statement of Facts.

College Counsel submitted that the facts demonstrate that on or about June 6, 2022, the Member became frustrated with the Child, who was 3 years old and non-verbal. She slapped the Child on the cheek after they screamed and pulled the Member towards a nearby area of the preschool classroom. As a result of the Member's slap, the Child became very upset and screamed so loudly that both the Centre Supervisor and the cook rushed into the classroom to see what had happened. When the Member attempted to console the Child, they responded by hitting her while continuing to scream. College Counsel submitted that by slapping the Child, the Member engaged in physically

abusive conduct towards a young vulnerable child. Although this was a single motion and incident, it caused the Child emotional distress.

The Member's actions were excessive and she failed to mitigate the situation to make the Child feel safe and create a sense of belonging. Her conduct fell below expectations of RECEs. College Counsel submitted that this was a breach of the standards of practice of the profession. RECEs are expected to be caring and empathetic and to act with integrity. The Member's conduct demonstrated that she failed to be knowledgeable about how to de-escalate the situation at hand and use a range of strategies that support ongoing positive interactions with children, contrary to the Code of Ethics and Standards of Practice. Counsel for the College submitted that the Member demonstrated a lack of knowledge about a range of strategies that support ongoing positive interactions with children. It is never appropriate to engage in forceful or violent conduct with children. The Member failed to guide the Child's behaviour in a way that would have ensured the Child felt secure in the learning environment.

College Counsel further submitted that the Member failed to know, understand, and abide by legislation, policies, and procedures relevant to the profession and to make decisions and provide positive behavior guidance in the best interest of the Child. Her conduct was a prohibited practice and resulted in the Ministry issuing a compliance order. The Member's conduct could reasonably be perceived as reflecting negatively on the membership as a whole. It erodes the trust parents put on RECEs. It was a serious disregard for the Member's professional obligations and clearly unbecoming.

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

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admission and found 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 of proof and established on a balance of probabilities that it was more likely than not that the Member engaged in the acts of misconduct as alleged.

The Panel found that on June 6, 2022, the Member slapped the Child, who was 3 years old and non-verbal, on the cheek, causing them to become very upset, despite the Member's attempts to console them. The Child screamed so loudly that two Centre staff members rushed into the classroom to see what had happened. The Panel finds that this conduct amounted to physical and emotional abuse of the Child, a failure to engage in supportive and respectful interactions with the Child, and a lack of knowledge about de-escalating the situation at hand and fostering positive interactions with children. This is counter to the requirement that RECEs must demonstrate empathy, integrity, and compliance with the Standard of Practice. The Member's conduct specifically breached Standards I.B.2 and 1.C.2.

Further, the Member failed to know, understand, and abide by legislation, policies, and procedures relevant to the profession and to make decisions and provide positive behavior guidance in the best interest of the Child, contrary to Standard IV.B.1. The Member also failed to model professional values, beliefs and behaviours with the Child, and she failed to understand that her conduct reflected on her profession, contrary to Standard IV.C.4.

The Code of Ethics requires RECEs to make the well-being, learning and care of children their foremost responsibility. It requires them to value the rights of ALL children and create learning environments where all children can experience a sense of belonging and inclusion. The Panel finds that the Member breached the Code and all of the aforementioned Standards. This would be regarded by members of the profession as disgraceful, dishonourable and unprofessional. Her conduct reflected negatively on the profession and is clearly unbecoming.

The Panel acknowledged that this was the first time the Member was involved in an incident reported to the College, however, even a single incident can constitute physical and emotional abuse of a child, as well as a breach of numerous Standards of Practice.

The Panel believed that the facts as presented support the finding that the Member engaged in all of the acts of misconduct alleged.

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. 9 months; or

 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) to 3(f) 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:

Coursework

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the ECE Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation (the “Director”) if a grade is not assigned) and at her own expense, the following course(s) (subject to the Director’s pre-approval):
 - i. Anger management;

- ii. Building positive and responsive relationships with children; and
 - iii. Positive intervention strategies.
- b. The Member must provide the Director with proof of enrollment and successful completion of the course(s).

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the ECE Act, the Member, at 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.

- d. 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.

- e. The Member will meet with the Mentor at least every 2 weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).

- f. The Member will complete a minimum of 2 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.

- g. After a minimum of 7 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(d),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(d) and discussed the subjects set out in paragraph 3(e) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.

Other

- i. 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.
 - j. 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 12 months of the date of this Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted that the Proposed Order was appropriate in the circumstances and that it would send a message broadly to the community of RECEs and to the public at large that the Member's conduct was unacceptable and would not be tolerated. It would discourage other RECEs from engaging in similar conduct and it would send a specific message to the Member that her conduct was unacceptable. The Proposed Order would assist in rehabilitating the Member and

ensure that she learns from her wrongdoing. The Proposed Order was also within the range of penalties imposed in similar cases, while taking into account the specific aggravating and mitigating factors of this case.

Counsel for the College indicated that there were five aggravating factors in this case:

1. The Child was vulnerable as a result of being young and non-verbal.
2. The conduct of the Member was abrupt and violent.
3. The conduct of the Member had a negative emotional impact on the child. The Child was emotionally affected by the Member's conduct, which they demonstrated by trying to hit the Member and screaming loudly.
4. The incident reflects negatively on the profession. Slapping a child on the cheek erodes the trust parents put in RECEs.
5. The Member had been previously addressed twice by her employer with regard to appropriate child guidance.

Counsel for the College submitted that the mitigating factors included the Member's guilty plea. By agreeing to the facts and penalty, she saved the College the time and expense of a contested hearing. This also demonstrated that the Member had insight into her conduct and willingness to improve by agreeing to the remediation. The Member also had been registered with the College for approximately 13 years without any prior history of misconduct.

College Counsel submitted that there were two additional considerations that were neither aggravating nor mitigating, but which warranted consideration: one, the Child suffered no physical injuries; and two, there was no evidence to suggest that they experienced any long-lasting effects or emotional impact.

College Counsel advised the Panel to be mindful that a jointly proposed penalty should be accepted unless the penalty was so harsh or lenient that it would bring the administration of justice into disrepute or would otherwise not be in the public interest.

Counsel for the College provided the Panel with three cases to demonstrate that the Proposed Order was proportionate and consistent with similar conduct:

- *College of Early Childhood Educators vs Diba Hashimi, 2018 ONCECE 3*
- *College of Early Childhood Educators v. Leslie Nicole Raybon, 2021 ONCECE 2*

- *College of Early Childhood Educators v. Karyn Shelley Snow, 2022 ONCECE 12*

College Counsel submitted that costs were agreed upon by the parties and represented a small portion of the actual costs incurred.

Submissions of the Member on Penalty and Costs

The Member agreed to the Proposed Order and did not make any further submission.

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 to suspend the Member's certificate of registration for a period of
 - a. 9 months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) to 3(f) 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:

Coursework

- a. Prior to the Member commencing or resuming employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the ECE Act the Member must successfully complete, with a minimum passing grade of 70% (or

to the satisfaction of the Director) if a grade is not assigned) and at her own expense, the following course(s) (subject to the Director's pre-approval):

- i. Anger management;
 - ii. Building positive and responsive relationships with children; and
 - iii. Positive intervention strategies.
- b. The Member must provide the Director with proof of enrollment and successful completion of the course(s).

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the ECE Act, the Member, at 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.

- d. 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.

- e. The Member will meet with the Mentor at least every 2 weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).

- f. The Member will complete a minimum of 2 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.

- g. After a minimum of 7 sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,

- ii. that the Mentor received a copy of the documents referred to in paragraph 3(d),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(d) and discussed the subjects set out in paragraph 3(e) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.

Other

- i. 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.
 - j. The College may require proof of compliance with any of the terms in this Order at any time.
4. The Member is required to pay the College's costs fixed in the amount of \$1,000, within 12 months of the date of this Order.

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 joint proposal on penalty addresses the principles of specific and general deterrence, rehabilitation, and the confidence and protection of the public.

While the Panel understands the high threshold of a joint submission and as such, did not interfere with the joint submission, the Panel expressed concern at the increasing number of discipline cases involving physical abuse. It is the obligation of RECEs to treat all children with respect, dignity and create environments where all children can safely experience a sense of belonging and inclusion. The Panel wants to send a clear message to the membership that physical abuse will not be tolerated and urges the College to seek more severe penalties in the future for this conduct.

ORDER AS TO COSTS

Subsection 33(5)(4) of the ECE Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that this is an appropriate case for costs to be awarded and the amount proposed by the parties is reasonable. The Panel orders that the Member pay costs in the amount of \$1,000 to be paid within 12 months of the date of this Order.

I, Barbara Brown RECE, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel.



Barbara Brown RECE, Chair

May 8, 2024

Date