

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Heather Anne Checkak, 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: Kristine Parsons, RECE, Chair
Barbara Brown, RECE
Shernett Martin

BETWEEN:

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COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
And)	
)	
Heather Anne Checkak)	Self-represented
REGISTRATION # 132921)	
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)	
)	Lonny Rosen,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: August 14, 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 August 14, 2024. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (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 is permitted to make any audio or video recording of these proceedings by any other means.

MEMBER’S NON-ATTENDANCE AT THE HEARING

Heather Anne Chechak (the “Member”) did not attend the hearing. Counsel for the College provided documentary evidence outlining the College’s attempts to communicate with the Member about the hearing. This evidence indicated that the College had informed the Member of the purpose, date, time, and location of the hearing on several occasions, including by properly serving the Notice of Hearing. This satisfied the Panel that the Member had been informed of the purpose, date, time and location of the hearing. Accordingly, the hearing proceeded in the Member’s absence. While a member’s absence would generally mean that they would be deemed to deny the allegations, in this case, College Counsel advised the Panel that the Member had admitted to the allegations of misconduct and had signed an Agreed Statement of Facts.

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 August 6, 2024, which provided as follows:

1. At all material times, the Member was a member of the College and was employed as a Registered Early Childhood Educator (“RECE”) at Seaforth Co-operative Children’s Centre (the “Centre”), in Seaforth, Ontario.
2. On or about the morning of May 8, 2021, the Member was responsible for supervising a group of preschool aged children in the Centre’s preschool room, including a three-year-old child (the “Child”). The Member forcefully grabbed the Child by the arm and spoke to them in a raised angry tone, while standing in close proximity to their face. As a result of the Member’s actions, the Child felt pain, cried, and sustained a red mark on their arm.
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 work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College’s Standards of Practice;

- iv. The Member failed to know the current legislation, policies and procedures that are relevant to 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
 - v. 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
- e. The Member acted in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

EVIDENCE

College Counsel advised the Panel that the parties had reached an agreement on the facts and introduced an Agreed Statement of Facts, which provided as follows:

The Member

1. The Member has had a certificate of registration with the College for approximately two 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 in Seaforth, Ontario.

The Incident

3. On the morning of May 8, 2021, the Member was responsible for supervising a group of preschool aged children including the Child, who had an Individual Support Plan ("ISP"). The Member forcefully grabbed the Child by the arm, causing them to fall to the floor while

holding their arm. While the Child was on the floor, the Member leaned close to the Child's face and told them to stop kicking her in a "harsh, loud and angered" tone. The Child continued crying, stood up and went to another staff member for comfort, complaining that their arm hurt.

4. As a result of the Member's conduct described above, the Child sustained a red mark on their arm that remained visible for several hours.

Additional Information

5. The Child was upset and in pain as a result of the Member's conduct, and described how the Member grabbed their arm to the Centre's Director and to their parents.
6. The Children's Aid Society verified the allegations against the Member as described in paragraphs 3 and 4.
7. The Child's ISP, which among other things was posted in the classroom, had specific recommendations to avoid power struggles with the Child and positive intervention strategies for de-escalating disruptive behaviours. When the Member had returned to the Child's classroom a "couple of weeks" prior to the Incident, she had to review the Child's ISP, as well as attend multiple resource meetings to ensure the Child was supported in accordance with their ISP.
8. The Centre's Behaviour Management policy (the "Policy") prohibits corporal punishment, physical restraint of a child, using harsh or degrading measures or inflicting bodily harm on children. The Policy provides suggestions for "gentle, understanding and supportive" redirection when a child is "unable to cope". The Member formally agreed to comply with the Centre's policies prior to the Incident.
9. The Centre suspended the Member's employment immediately after the Incident. The Member then resigned from her employment at the Centre.

Admissions of Professional Misconduct

10. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraph 3 and 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 work in partnership with children, families and colleagues to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion, contrary to Standard III.C.1 of the College's Standards of Practice;
 - iv. The Member failed to know the current legislation, policies and procedures that are relevant to 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
 - v. 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 which was signed by the Member.

SUBMISSIONS OF THE PARTIES ON LIABILITY

College Counsel submitted that the evidence, consisting of the Agreed Statement of Facts clearly established the allegations of professional misconduct as set out in the Notice of Hearing, and that the Member admitted to the allegations in the Agreed Statement of Facts by way of signing the plea inquiry.

The Member was emotionally abusive toward the Child and demonstrated a lack of respect and empathy for the Child by speaking harshly to the Child and not comforting them. The Member also failed to implement the specific recommendations outlined in the Child's ISP. The Member did not follow accepted Standards of Practice and guide the Child's behaviour in a positive manner.

College Counsel submitted that the Member's actions negatively reflect on the profession and erode the trust of the public – especially parents of children with special needs. College Counsel further submitted that the Member's conduct, taken as a whole, would be reasonably regarded by members as disgraceful, dishonourable, unprofessional, and clearly unbecoming a member of the College.

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 the College met its onus of proof

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 on May 8, 2021, while the Member was responsible for supervising a group of preschool aged children, she engaged in aggressive and forceful conduct which constituted abuse towards the Child, who has special needs and an ISP.

The Panel finds found that as a result of this conduct, the Member physically and emotionally abused a child under her care, and she failed to engage in supportive and respectful interactions with a child under her care. The Member forcefully grabbed the child Child by the arm causing him them to fall to the floor. While the child Child was on the floor, she the Member leaned close to the child's Child's face and told him them to stop kicking her in a "harsh, loud and angered" tone. As a result of the member's Member's conduct, the child Child sustained a red mark on their arm that remained for several hours.

The Member also failed to demonstrate knowledge and use a range of strategies documented in the Child's ISP that support ongoing positive and respectful interactions with them. Through her actions, the Member neglected to work in partnership with children, families and other RECEs to create a safe, healthy and inviting environment that promotes a sense of belonging, well-being and inclusion.

The Member's conduct demonstrated that she did not comply with the College's Standards of Practice or the Centre's Policy, which required her to know, understand and abide by legislation, policies and procedures relevant to the profession.

The Panel accepted the College's submission, and the Member's admission, that her conduct would reasonably be regarded by members of the College as disgraceful, dishonourable and unprofessional as well as conduct unbecoming an RECE.

POSITION OF THE PARTIES ON PENALTY

The parties made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"), and 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 the Member reinstates her certificate of registration with the College 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 courses (subject to the Director's pre-approval):
 - i. Positive intervention strategies; and
 - ii. Inclusion in early childhood education and addressing the needs of children with special needs.
- b. The Member must provide the Director with proof of enrollment and successful completion of the courses.

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 6 months of the date of this Order.

Submissions of the College on Penalty and Costs

College Counsel outlined that the first and foremost objective of the Proposed Order was to protect young and vulnerable children, whose safety is entrusted to RECEs. A second important objective of the Proposed Order was to maintain the public's confidence in the College's ability to regulate

members' conduct. A further objective of the Proposed Order was to denounce the Member's unacceptable behaviour and demonstrate to the public and other RECEs that the College will not tolerate such behaviour.

Additionally, College Counsel submitted that it is important that the Proposed Order provide general deterrence by demonstrating to other members of the College that there are serious consequences for such behaviour and remind them of their responsibilities. The Proposed Order should also provide specific deterrence to the Member by being serious enough to deter her from similar misconduct. Finally, the Proposed Order should provide the Member opportunities to rehabilitate and remediate her behaviour to support a successful return to practice.

The College asked the Panel to consider eight aggravating factors in its deliberations:

1. The Child was young and vulnerable.
2. The Child's ISP provided further evidence of their vulnerability.
3. The Member's conduct caused an injury to the Child that was visible for several hours following the physical interaction.
4. The Member's behaviour caused negative emotional impact on the Child.
5. The Member's behaviour occurred in the classroom with potential to impact other children.
6. The Member's behaviour was a direct contravention of the Centre's discipline policy.
7. The Member failed to use positive behaviour guidance techniques.
8. Although this incident was brief, it was serious enough to reflect negatively on the profession and erode trust.

The College outlined two mitigating factors for the Panel to consider:

1. The Member admitted to the misconduct.
2. The Member does not have prior misconduct history with the College.

College Counsel provided the Panel with four cases to demonstrate that the Proposed Order was proportionate and consistent with the penalty ordered by the Discipline Committee in respect of similar conduct:

- *College of Early Childhood Educators v. Naina Mubin Shaik, 2023 ONCECE 17*
- *College of Early Childhood Educators v. Juliet Evans, 2024 ONCECE 16*

- *College of Early Childhood Educators v. Marie Suzanne Cormier-Dein, 2024 ONCECE 12*
- *College of Early Childhood Educators v. Vasantha Thevakumar, 2024 ONCECE 8*

PENALTY DECISION

The Panel accepted the joint submission on penalty and made 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. 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 the Member reinstates her certificate of registration with the College 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 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 courses (subject to the Director's pre-approval):

- i. Positive intervention strategies; and
 - ii. Inclusion in early childhood education and addressing the needs of children with special needs.
- b. The Member must provide the Director with proof of enrollment and successful completion of the courses.

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, to be paid within 6 months of the date of this Order.

REASONS FOR PENALTY

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 would otherwise not be in the public interest.

The Panel carefully considered the joint submission of the parties, the aggravating and mitigating factors, and the findings of comparable cases submitted by College Counsel. The Panel found that the proposed penalty was proportionate, in that it fell within the range of penalties imposed in comparable cases put before the Panel.

The suspension, along with the reprimand, will act as a specific deterrent to the Member, and a general deterrent to other members of the profession, from engaging in such conduct. The terms, conditions and limitations imposed will help to protect the public. The Member will also be rehabilitated through the mentoring sessions and the mandated course work.

The Panel urges the Member to take full advantage of the processes to reflect on their practice and develop strategies and systems to support their return to practice in a safe, compassionate and professional manner.

ORDER AS TO COSTS

Subsection 33(5)(4) of the 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 order.

I, Kristine Parsons, RECE, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.



Kristine Parsons, RECE, Chair

October 24, 2024

Date