

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Melinda Jacqueline Hope Pontes, 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: Ann Hutchings, RECE, Chair
Geneviève Breton
Katie Begley, RECE

BETWEEN:

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)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
Melinda Jacqueline Hope Pontes)	Self-represented
REGISTRATION # 00656)	
)	
)	
)	
)	
)	
)	Elyse Sunshine
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: September 13, 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 September 13, 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.

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 13, 2024, which provided as follows:

1. At all material times, Melinda Jacqueline Hope Pontes (the “Member”) was a member of the College and was employed as a Supervisor at Grandview Daycare in Grimsby, Ontario (the “Centre”).
2. On multiple occasions, between approximately December 2018¹ and March 2022, the Centre’s staff and a parent of a child enrolled at the Centre, reported verbally and in writing

¹ College Counsel made a request to correct a typo in the Statement of Allegations in paragraph 2, changing the time frame, striking the words “February 2019” and adding in “December 2018”. The Member agreed to the proposed change and the Panel approved the request.

concerns that D.P., an RECE employed at the Centre, repeatedly engaged in abusive, degrading, and forceful conduct towards toddlers and preschool-aged children. Among other things, the concerns reported to the Member included information that D.P. forcefully lifted children off the ground to his eye level to yell at them, grabbed a child by the arms and threw them onto a pillow on the floor, withheld food from a child, aggressively flipped a child onto their stomach during naptime, and spoke to children in an aggressive, abrupt and/or belittling manner.

3. Despite receiving the reports described in paragraph 2 above, the Member failed to do the following:

- a. She did not take adequate steps to prevent abusive conduct reported to her from reoccurring to ensure the safety and well-being of the children in D.P.'s care;
- b. She did not report the concerns against D.P. to the Family and Children's Services of Niagara ("FACS").
- c. She did not instruct any of the staff who reported concerns to her to report directly to FACS;
- d. She did not report the concerns to the Ministry of Education (the "Ministry") by way of a Serious Occurrence Report.

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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children's well-being, contrary to Standard I.B.4 of the College's Standards of Practice;

- ii. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
- 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 observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
- v. 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;
- vi. 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;
- vii. The Member failed to provide guidance and direction to supervisees that is respectful and fair and/or failed to ensure a level of supervision that is appropriate in light of the supervisee's education, training, experience and the activities being performed, contrary to Standard IV.C.8 of the College's Standards of Practice;
- viii. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, contrary to Standard IV.C.11 of the College's Standards of Practice;
- ix. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
- x. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the Children's Aid Society, contrary to Standard VI.C.8 of the College's Standards of Practice;

- 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);
- d. The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
- e. The Member acted in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

EVIDENCE

The parties advised the Panel that agreement had been reached 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 15 years. She is in good standing with the College and does not have a prior discipline history with the College.

Overview

2. At all material times, until Friday, March 4, 2022, the Member was employed as a Supervisor at the Centre.
3. On multiple occasions, between December 2018 and January 2022, the Centre's staff and a parent of a child enrolled at the Centre, reported verbally and in writing, concerns that D.P. (RECE) repeatedly engaged in abusive, degrading, and forceful conduct towards toddlers and preschool-aged children, emotionally impacting some of the children.

4. Despite receiving the reports described in paragraph 2, and detailed below, between approximately December 2018 and March 2022, the Member failed to do the following:
 - a. She did not take adequate steps to prevent abusive conduct reported to her from reoccurring to ensure the safety and well-being of the children in D.P.'s care;
 - b. She did not report the concerns against D.P. to the FACS, or any other Children's Aid Society ("CAS").
 - c. She did not instruct any of the staff who reported concerns to her to report directly to FACS, or any other CAS; and,
 - d. She did not report the concerns to the Ministry by way of a Serious Occurrence Report.

December 2018 report

5. On December 13, 2018, the Member received a verbal report from a staff member regarding D.P.'s behaviour earlier that day in the playground. It was reported that D.P. grabbed a preschool-aged child by both arms, lifted the child into the air so that the child's face was level with his own, and yelled at the child. According to the report, the child was scared, crying, and trying to get down.
6. The Member met with D.P. the following day to discuss the incident. During the documented discussion, she reminded D.P. of the appropriate ways of speaking and physically interacting with children in his care, including not being "gruff or abrupt" and going down to the children's level when guiding children's behaviour. The Member advised D.P. that their discussion "was merely a conversation" and "not a discipline meeting".

February and March 2019 reports

7. On February 27, 2019, a parent anonymously emailed the Centre's Board of Directors (the "Board") regarding D.P.'s concerning conduct with children. According to the email, which the Member was made aware of, D.P. exhibited "very aggressive behaviour" with

the preschool-aged children, which included the use of “strong and threatening language,” segregating children, and inappropriately mimicking children. An example of “excessive force” that the parent reported was that D.P. would pick children up over his head, while they are crying, and yell in their faces.

8. A staff member reported to the Member that on March 14, 2019, D.P. grabbed a child by both their arms, lifted them off the ground, tossed the child down onto a pillow on the floor and then scolded the child in a raised voice while standing in very close proximity to the child’s face. The Member advised the staff member that she would investigate and “handle it appropriately”.
9. The Centre then conducted an internal investigation into D.P.’s conduct, during which additional concerns were raised by staff.
10. On April 3, 2019, the Member issued a written warning to D.P. and placed him on a Performance Improvement Plan (“Plan 1”) for 90 days, with the goal of ensuring that D.P. was meeting the Centre’s expectations of behaviour guidance practices with the children. The Member monitored and documented D.P.’s compliance with Plan 1, and provided verbal feedback to D.P. on a weekly basis.

January 2021 reports

11. On January 18, 2021, two staff members reported concerns regarding D.P.’s interaction with a preschool-aged child to the Member and the Executive Director of the Centre (the “Executive Director”). One staff member reported that D.P. used a loud and stern voice to speak with a child after they had soiled themselves during nap time, and repeatedly and aggressively told the child to stop crying. The second staff member reported that D.P. belittled the child when they refused to remove their soiled clothing. D.P. then picked them up and carried them into the hallway as the child “went limp.” The staff member also reported that in the hallway, D.P. mocked the child and removed their hands from their face as they cried.
12. On January 19, 2021, the day following the reported concerns, the Member suspended D.P.’s employment for three days. Later in 2021, the Member moved D.P. from the pre-

school classroom to the toddler classroom to ensure his conduct could be “observed on a continual basis”.

January 2022 reports

13. On January 10, 2022, a staff member reported to the Member that on December 22, 2021, during lunch time, D.P. was berating children and forcefully prevented them from leaving the table by grabbing at least two of them and pushed one of them back into their chair. According to the report, several children cried and/or appeared “shocked” and scared as a result of D.P.’s conduct.
14. After receiving the report, the Member spoke with another staff member who was also present in the room at the time of the incident. On January 25, 2022, that staff member provided a written report to the Member. According to this report, D.P. was getting irritated that the children were not eating so he took away their plates and utensils, and said, “I’m the alpha male – you listen to me” as well as other “inappropriate” and “negative” comments towards the children.
15. On February 16, 2022, the Member placed D.P. on a second Performance Improvement Plan for 90 days (“Plan 2”) with the goal of demonstrating consistency with “self-regulation, awareness and management of negative emotions with children”. Plan 2 also required D.P. to participate in peer mentoring and recommended engaging in anger management counselling.

Additional Information

16. The Member held direct responsibility for managing and supervising staff at the Centre, including D.P., until March 4, 2022. The Executive Director, who was responsible for overseeing the management of the Centre’s four locations, co-signed with the Member the discipline measures issued to D.P., including the suspension letter and the two Performance Improvement Plans.
17. On Monday, March 7, 2022, K.H. (RECE) assumed the role of the Centre’s Supervisor, and the Member began working as a supervisor at another location of the Centre.

18. On March 23, 2022, K.H. received five reports from four staff members describing concerns regarding D.P.'s interactions with toddlers earlier that day and the day before. K.H. forwarded the reports to the Member and the Executive Director the same day. It was reported that:

- a. D.P. used an aggressive tone with a child, then grabbed a toy from the child's hands and "violently" threw the toy backwards approximately 10 feet across the length of the playground. As a result of the D.P.'s conduct, the child was "scared" and "startled" and sought comfort from another staff member.
- b. D.P. took a hat from a child and spoke in a "very aggressive" tone with the child. The child made attempts to grab the hat from D.P., but he held it out of reach and when the child began to cry, D.P. yelled at them.
- c. During lunchtime, D.P. told a child that if they did not stop being rude, he would take away the child's dessert, and then withheld the dessert from the child.
- d. During naptime, D.P. "aggressively whipped [a child] over on their stomach" and took away the child's stuffed toy.
- e. While getting children ready to go outside, D.P. grew frustrated, waved his arms, and pointed his fingers at the children while speaking to them in a raised voice.

19. D.P.'s employment at the Centre was terminated on March 28, 2022. Approximately a week later, on April 6, 2022, the Executive Director filed a Mandatory Employer Report with the College.

20. The College is not aware of any physical marks, injuries, or long-term emotional impacts to the children as a result of D.P.'s conduct.

21. If the Member were to testify, she would advise the following:

- a. She took the staff reports “very seriously” and followed the Centre’s progressive discipline procedures. The Executive Director, and on some occasions also the Board, provided guidance regarding the discipline measures she imposed on D.P., and approved them.
- b. She was aware of her obligation to keep records, and documented the staff’s reports and the disciplinary measures that were imposed on D.P.
- c. Although at the time she “truly did not see a reason” to report to CAS or the Ministry, in retrospective she regrets not adhering to her legislated reporting obligations, and not directing staff to report directly to CAS.
- d. Following the College’s investigation, she has taken measures to improve her practice of the profession. She completed a series of courses and training programs, among other things focusing on leadership, supporting growth and development of staff, and stress management.

Admissions of Professional Misconduct

22. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 to 15 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 understand the importance of creating and maintaining positive relationships with families and colleagues to support children’s well-being, contrary to Standard I.B.4 of the College’s Standards of Practice;

- ii. The Member failed to ensure that in her relationship with families and colleagues, the needs and best interests of the child are her highest priority, contrary to Standard I.C.7 of the College's Standards of Practice;
- 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 observe and monitor the learning environment and to take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice;
- v. 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;
- vi. 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;
- vii. The Member failed to provide guidance and direction to supervisees that is respectful and fair and/or failed to ensure a level of supervision that is appropriate in light of the supervisee's education, training, experience and the activities being performed, contrary to Standard IV.C.8 of the College's Standards of Practice;
- viii. The Member failed to report professional misconduct, incompetence and incapacity of colleagues which could create risk to the health or well-being of children or others to the appropriate authorities, contrary to Standard IV.C.11 of the College's Standards of Practice;
- ix. The Member failed to be knowledgeable about legislation, policies and procedures related to the *Child and Family Services Act*, contrary to Standard VI.B.4 of the College's Standards of Practice;
- x. The Member failed to comply with the *Child and Family Services Act* about her duty to report suspected child abuse and neglect to the Children's Aid Society, contrary to Standard VI.C.8 of the College's Standards of Practice;

- 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);
- d. The Member contravened a law, which contravention has caused or may cause a child who is under her professional supervision to be put or remain at risk, contrary to Ontario Regulation 223/08, subsection 2(21); and/or
- 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. 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 evidence, consisting of the Agreed Statement of Facts, clearly established the allegations of professional misconduct as set out in the Notice of Hearing.

The College submitted that the Member engaged in professional misconduct when, over a period of three years, in her capacity as Supervisor, she failed to take appropriate action after receiving multiple verbal and written reports of a pattern of abusive behavior of an RECE under her supervision.

In her role as a supervisor, who held a position of trust and authority, the Member was required to report abuse and serious harm. Additionally, she did not provide proper guidance and inform staff to report the abuse to authorities. By failing to report the abuse, she contravened

- the *Child and Family Services Act* by failing to report to the CAS and
- the *Childcare and Early Years Act* by failing to report to the Ministry.

The College submitted that the Member failed to ensure that the best interests of the children and their needs were paramount. The Member's behaviour fell below what is required of RECEs.

The Member failed to take adequate steps to protect the children against abuse, which put them at risk of harm. The College argued that this conduct was unacceptable and will not be tolerated.

The College submitted that the Member's conduct reflects negatively on the RECE profession as a whole and erodes the public trust.

The Member admitted to the conduct and acknowledged the facts as set out in the Agreed Statement of Facts. submitted that this was an honest mistake, and that it was not done in malice. The Member submitted that she has worked very hard to educate herself and the people she works with. The conduct was not done purposefully or with disregard. She had no intention of not complying with the legislation.

FINDINGS AND REASONS FOR DECISION

The Panel accepted the evidence as described in the Agreed Statement of Facts. The Panel found that all of the allegations set out in the Notice of Hearing were supported by the facts contained in the Agreed Statement of Facts. The Panel finds that it is more likely than not that the events occurred as stated in the Agreed Statement of Facts.

As a supervisor, the Member was required to report the incidents of abuse and serious occurrence to CAS and the Ministry. Over a period of three years, she failed to report several incidents of abuse to children at the Centre. The Member also failed to direct staff who came to her with this information to make the reports they were required to make under the law. The Member did not comply with her legal obligations, nor with professional standards. The seriousness of her conduct demonstrates

the Member's lack of judgment and failure to adhere to her responsibility as a supervisor, such that it reflects negatively on the profession. The Panel found that the Member's conduct in this case showed disregard for the welfare and safety of children in her care. Such conduct shall not be tolerated and would reasonably be regarded by members of the profession and the public as disgraceful, dishonorable, unprofessional and unbecoming of a member of the RECE profession.

POSITION OF THE PARTIES ON PENALTY

The parties 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. 6 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 (subject to the Director’s pre-approval):

- i. Duty to Report.
- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

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. the coursework the Member is ordered to complete, as set out in paragraph 3(a) above,
 - v. strategies for preventing the misconduct from recurring, and
 - vi. 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 submitted that the Proposed Order was appropriate in the circumstances and that the principles of penalty were respected. It sends 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 learned fully 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.

The College indicated that there were nine aggravating factors in this case:

1. The Member's breach their duty to report was not a momentarily lapse of judgment. This was a pattern of behaviour that went on for three years – the longest failure to report the College has ever seen;
2. The Member was a leader of the Centre in a position of trust and authority. Staff reported to her because they trusted her to guide them in doing the right thing;
3. The Member received multiple reports of concern verbally and in writing;
4. The children involved were toddlers and preschool aged children, which means they were more vulnerable and they depended on adults for safety;
5. The reports the Member received were serious and included lifting children and yelling in their faces, such that a reasonable RECE would have made a report.

6. According to multiple reports, D.P.'s conduct had a negative impact on children;
7. The Member's conduct continued through the Spring of 2022 when the College had repeatedly communicated on the importance of the duty to report;
8. The Member's inaction enabled the abuse to continue. Had the member immediately reported the abuse the conduct would have ended long before;
9. The Member's conduct as a whole is serious enough to erode public trust and confidence in RECEs to protect children from harm.

The College submitted there were two mitigating factors and two additional considerations:

Mitigating Factors

1. The Member admitted to the conduct and is taking responsibility for her actions by pleading guilty and by agreeing to the facts and penalty, she saved the College the time and expense of a contested hearing. The Member had insight and remorse into her conduct and demonstrated her willingness to improve by agreeing to the remediation proposed by the College.
2. Member has no prior misconduct history with the College.

Additional Considerations:

1. The Member documented concerns about D.P. that were reported to her in a timely manner.
2. The Member took some steps to address concerns about D.P.; though insufficient, she tried to do something. She showed a genuine attempt to remediate the situation, which sets this case apart from cases where members have completely ignored reports of abuse.

The College provided the Panel with four cases to demonstrate that the Proposed Order was proportionate and consistent with similar conduct:

- *College of Early Childhood Educators vs Asma Ather Kidwai, 2019 ONCECE 11*
- *College of Early Childhood Educators v. Beverly Anne Renaud, 2023 ONCECE 8*
- *College of Early Childhood Educators v. Chelsea Lynne May Jalbert, 2023 ONCECE 11*
- *College of Early Childhood Educators v. Pawandeep Kaur, 2024 ONCECE 1*

The College also submitted that costs were agreed upon and consistent with other cases of this nature.

Submissions of the Member on Penalty and Costs

The Member submitted she has been working very hard for the past year and a half to ensure she is meeting her professional obligations. She organized a training session on the duty to report. Further, since then, she has had two additional situations come across her desk and has corrected her behaviour.

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

- i. Duty to Report.
- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

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. the coursework the Member is ordered to complete, as set out in paragraph 3(a) above;
 - v. strategies for preventing the misconduct from recurring; and
 - vi. 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 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 general deterrence, specific 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 penalty ordered met the objectives outlined above. Accordingly, the Panel accepted the joint submission and proposed penalty.

In reaching its decision, the Panel carefully considered the joint submission of the parties, the aggravating and mitigating factors, and the findings of comparable cases submitted by the College Counsel. The Panel found that the penalty is proportionate with the range of suspensions that were imposed in the comparable cases that were 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 course work.

Given the resources available and the numerous updates the College has shared over time with members on the importance of reporting child abuse, the Panel is particularly concerned by the Member's failure to report abuse. The Panel is concerned that supervisors are not reading or paying attention to the communications from the College. This is concerning since it is their responsibility to guide staff under their supervision. Supervisors have the ultimate responsibility to ensure their staff are adhering to the Code of Ethics and Standards of Practice.

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 \$1,000.00 to be paid within 6 months of the date of this Order.

I, Ann Hutchings, 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.



Ann Hutchings, Chair

October 17, 2024

Date