

COMMUNITY CARE AND ASSISTED LIVING APPEAL BOARD

*Community Care and Assisted Living Act,
SBC 2002, c. 75*

APPELLANT: AG (Certificate Applicant)
RESPONDENT: Director, Early Childhood Educator Registry
PANEL: Gordon Armour, Chair
Mary-Ann Pfeifer, Member

DECISION

Introduction

[1] The appellant appeals a decision of the respondent Director of the Early Childhood Educator Registry ("ECE Director") refusing to grant her application dated November 30, 2009, for an Early Childhood Educator ("ECE") Assistant certificate under the *Community Care and Assisted Living Act* ("CCALA").

Background

[2] Section 8(1) of the *CCALA* and sections 27 and 28 of the *Child Care Licensing Regulation*, BC Reg. 332/2007, govern the issuance of early childhood educator assistant certificates. They read as follows:

CCALA

8 (1) A certificate may be issued to a person in accordance with the regulations stating that the person has the qualifications required by the regulations for certification as an educator of children, or as an educator in the manner specified in the certificate respecting children, at a community care facility.

Child Care Licensing Regulation

27 The director may issue an early childhood educator assistant certificate to an applicant who does all of the following:

- (a) submits an application to the director;
- (b) has successfully completed at least one course of a basic early childhood education training program in child development, guidance, health and safety, or nutrition, through an educational institution listed in item 1 of Schedule D;
- (c) demonstrates to the satisfaction of the director that the applicant
 - (i) is of good character
 - (ii) has the personality, ability and temperament necessary to manage or work with children, and
 - (iii) has the training and experience and demonstrates the skills necessary to be an early childhood educator assistant

- 28** (1) Despite section 25 to 27 [requirements for certificates], the director may exempt an applicant for a certificate from a requirement under any of those sections to complete a program or course if
- (a) the applicant has completed a program or course
 - (i) in qualifying for another profession, or
 - (ii) through an educational institution that is not listed in the applicable provision of Schedule D, and
 - (b) the director considers the completed program or course to be at least equivalent to the required program or course.
- (2) For the purposes of subsection (1), the director may determine that a program or course is not equivalent to a required program or course solely on the basis that the institution through which the applicant completed the program or course is not approved by a provincial, state, national or other government body.

[3] The ECE Director's decision to refuse the appellant's application for an ECE Assistant certificate is dated November 30, 2009. The reason given was that the course work the appellant completed was not in one of the required areas of child growth and development: child guidance; health, safety and nutrition. Secondly, the course content and/or instructional hours have not met the minimum standards as outlined in the BC Child Care Occupational Competencies and the Linking Competencies documents.

[4] The ECE Registry defines in policy a course to be at least 30 credits. This is based on the fact that most college courses are between 30 and 45 hours in length. If an applicant has not completed one of these courses, an equivalency assessment is completed to determine if similar course requirements have been met.

Issues and Arguments

[5] On January 4, 2010, the Community Care and Assisted Living Appeal Board (the "Board") received a letter from the Appellant stating that she wished to appeal a decision denying her application for a certificate as an Early Childhood Educator Assistant. In her letter, she submitted that she had completed Psychology 111 – 112 at Malaspina College in 1982/83, which satisfied the requirement for 30 hours of study in child growth and development.

[6] On February 12, 2010, the Board received a letter from the Appellant stating:

- she was unable to find within the Licensing Regulations that there must be 30 hours of Child Growth and Development
- she was including with this letter an email that states there is 6 hours of Child Growth and Development in Psychology 112
- the psychology course is from Malaspina College (now Vancouver Island University), an institution listed in the regulations

[7] The Appellant also stated that the ECE Registry had indicated to her that no one who has appealed has won. The Appellant submits, however, that based on the regulations, she should be granted her assistant status.

[8] On March 2, 2010, the ECE Registry filed a statement of points regarding the appeal under consideration, and based on sections 27 and 28 of the *Child Care Licensing Regulation*, and the policies

of the ECE Registry, the registry requests that its decision to deny the Appellant's licence to practice, be upheld by the Board.

Analysis

[9] Section 36 of the *Administrative Tribunals Act*, SBC 2004, c. 45, applies to the Board and is significant because it permits the Board to hear appeals by any combination of written, electronic and oral hearings. The Board is satisfied that there are no questions of credibility or other circumstances favouring an oral hearing, and this appeal is appropriately determined by a written hearing.

[10] The Appellant provided the ECE Registry with a copy of a transcript from Malaspina College (now Vancouver Island University), a recognized institution under Schedule D. The transcript identifies that the applicant completed several courses between 1982 and 1992 including Psychology 111 and 112. These courses were evaluated to determine their content and whether they provided the applicant with the required course equivalency towards her basic childhood education training.

[11] The Board considered the following relevant facts and evidence:

- The Appellant's transcript from Malaspina College (now Vancouver Island University);
- The course descriptions for Psychology 111 and 112 as provided by Malaspina College (now Vancouver Island University); and
- Correspondence from the Chair, Department of Psychology, Malaspina College (now Vancouver Island University) outlining the number of hours related to child development in Psychology 111 and 112.

[12] The ECE Director's statement of points provided clarification regarding the assessment of the Appellant's credentials, outlining the process by which the ECE Registry determines whether training is equivalent, and providing options for the Appellant to meet outstanding requirements. The ECE Director noted that in determining equivalency, the following factors are taken into consideration:

- Confirmation that the admission requirement is the completion of secondary education or receipt of a school leaving certificate.
- Confirmation that the province, state, national, or other government body, approves the training institution.
- The course content and instructional hours meet the minimum standards as outlined in the "BC Child Care Occupational Competencies" and the "Linking Competencies" document.
 - In order to be granted full equivalency for one basic early childhood education course in the areas of Child Guidance or Health, Safety and Nutrition the training must meet a minimum of 80% of the instructional hours and course competencies.
 - In order to be granted full equivalency for one basic early childhood education course in the area of Child Growth and Development the training must be a minimum of 30 hours long and 60% of the program competencies.
 - No equivalency is granted when less than the above stated instructional hours and competencies have been met.

[13] The Board finds from the evidence that the course work and training completed by the appellant at Malaspina College (now Vancouver Island University) are not equivalent to the training requirements under section 27(b) of the *Child Care Licensing Regulation*. The Board supports the ECE Registry's decision that the Appellant does not have the training and skills necessary to be an Early Childhood Educator Assistant, and that 6 hours of child growth and development in Psychology 112 should not be considered equivalent to one course in child development.

[14] The Board notes that the *Child Care Licensing Regulation* does not expressly state that the applicant must complete 30 hours of Child Growth and Development. However, the Board is aware that section 28 of that regulation states that an applicant must have completed a course or program that is "at least equivalent to the required program or course" under section 27(b); namely, "at least one course of a

basic early childhood education training program in child development, guidance, health and safety, or nutrition.” The Board has also considered that course content and course length are defined in policy and outlined in the documents titled, “BC Child Care Occupational Competencies” and “Linking Competencies”. While those policies and documents are not legally binding, they may provide assistance in applying the provisions of the *Child Care Licensing Regulation*. The Board finds that it is reasonable to interpret “a course” to mean a course of at least 30 hours of instruction, given that most college courses are usually 30 or 45 hours in length. On review of the language in sections 27 and 28 of that regulation, the Board finds that it would be inconsistent with the intent of those sections to find that 6 hours of instruction in child growth and development in Psychology 112 is equivalent to one course in child development, guidance, health and safety, or nutrition.

[15] The Board confirms that Malaspina College (now Vancouver Island University), is an approved educational institution listed in item 1 of Schedule D; however, the Board notes that certification for early childhood educator assistant is specific to basic early childhood training programs completed through such an approved institution.

[16] The Appellant, in her Statement of Points, makes reference to a discussion with the ECE Registry regarding the appeal process and past decisions of the Board.

[17] The Board is an independent tribunal and it decides the merits of each appeal based on the evidence and argument provided by the parties. The Board's powers and procedures are set out in its enabling legislation, including the *CCALA*. Section 29(11) of the *CCALA*, states: “The board must receive evidence and argument as if a proceeding before the board were a decision of the first instance but the applicant bears the burden of proving that the decision under appeal was not justified.” Section 29(12) of the *CCALA*, states: “The board may confirm, reverse or vary a decision under appeal, or may send the matter back for reconsideration, with or without directions, to the person whose is under appeal.”

[18] The Board finds that the ECE Director was justified in his decision to not grant equivalency to the Appellant based on training taken at Malaspina College (now Vancouver Island University), in a different program area.

Conclusion

[19] For the reasons provided above, the Board confirms the ECE Director's decision. Accordingly, the appeal is dismissed.

April 21, 2010

“Signed”

Gordon Armour, Chair

“Signed”

Mary-Ann Pfeifer, Member