



# Community Care and Assisted Living Appeal Board

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## **DECISION NO. 2011-CCA-001(a)**

In the matter of an appeal under section 29(2)(d) of the *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75

<b>BETWEEN:</b>	SNM (Certificate Applicant)	<b>APPELLANT</b>
<b>AND:</b>	Andrew Morgan, Director, Early Childhood Educator Registry	<b>RESPONDENT</b>
<b>BEFORE:</b>	A Panel of the Community Care and Assisted Living Appeal Board Alison H. Narod, Panel Chair	
<b>DATE:</b>	Conducted by way of written submissions concluding on June 17, 2011	
<b>APPEARING:</b>	For the Appellant: For the Respondent:	Self-represented Anne Wetherill

## **APPEAL**

[1] This is an application by SNM (the "Appellant") to appeal a reconsideration decision of Andrew Morgan (the "Director"), Director of the Early Childhood Educator ("ECE") Registry, upholding his earlier decision to deny her application for a one year licence to practice as an ECE Educator.

[2] The issue is whether the Appellant's training as an early childhood educator which she undertook in the United Kingdom is equivalent to the completion of a basic early childhood education training program provided through an educational institution listed in Item 1 of Schedule D to the Child Care Licensing Regulation (the "Regulation").

## **BACKGROUND**

[3] The ECE Registry is responsible for the certification of Early Childhood Educators and Assistants in British Columbia.

[4] Section 8(1) of the *Community Care and Assisted Living Act* (the "Act") states, in part, that 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.

[5] Section 25 of the Regulation allows the Director of the ECE Registry to issue an ECE certificate ("licence") to a person who meets the requirements set out in that provision. One of those requirements is completion of a basic early childhood education training program through an educational institution listed in Item 1 of Schedule D to the Regulation.

[6] Section 28 of the Regulation provides the Director with the authority to consider equivalent training when an applicant has not completed an ECE program through an educational institution listed in Item 1 of Schedule D. The section allows the Director to determine that a program or course is equivalent.

[7] On July 8, 2010, the Appellant applied for a one year licence as an Early Childhood Educator, and filed documents in support. The Appellant has an International Baccalaureate Diploma and a Bachelor's Degree, both earned in the United Kingdom. She also has completed a one year Further Education and Training Awards Council ("FETAC") Level 5 Childcare program at an institution known as the Vocational Training & Opportunities Scheme in Galway, Ireland. This is an adults-only, vocational college which offers career-specific training in a number of fields, including early childhood education.

[8] Because her childcare training was acquired outside of B.C., the ECE Registry was required to evaluate its equivalency to the training required for the licence sought. Of the three evaluation options offered to her, the Appellant elected to have an assessment of her credentials done by the International Credential Evaluation Service ("ICES").

[9] By letter dated November 24, 2010, the Director denied the Appellant's application for an ECE Licence. Based on his review of the documentation before him, he found that she did not meet the academic requirements to become an ECE.

[10] The Director noted that Section 28 of the Regulation provided him, as Director, with the authority to consider equivalent training when an applicant for licensure has not completed training approved by the ECE Registry. This section allowed him to find that a program or course was equivalent, solely on the basis of whether the training institution had been approved by a province, state, or other government body. He pointed out that Section 28 did not permit him to grant equivalency based on work experience.

[11] Based on research completed by the ECE Registry to that point, the Director decided that the Appellant's training did not meet the requirements for the licence she sought because the training institute she attended had "open

admission" to the program she completed. Therefore her training was not considered to be post-secondary education.

[12] By letter dated December 5, 2010, the Appellant applied for reconsideration of the Director's decision.

[13] By letter dated January 19, 2011, the Director denied the Appellant's application for reconsideration of his November 24, 2010 decision. He found that although her training may be valuable and covered some of the competencies, based on ECE Registry policy, it was not considered post-secondary education in British Columbia. He wrote, "Our research indicates that based on National Framework of Qualifications Level 5 FETAC training is at the secondary school level."

[14] Additionally, he found that the training she received "had gaps" and was not sufficient to conclude she had "full equivalency" to meet the requirements for the licence sought. For instance, the number of hours she completed in Practicum and in Program Development was not sufficient for full equivalency.

### **The Appellant's Argument**

[15] The Appellant makes three general arguments in challenging the Director's reconsideration decision.

[16] First, she argues that the conclusion that the training she received was not post-secondary education was wrongly based on a finding that the training institute she attended has "open admission" into the program she completed. She observes that there may be some confusion between whether the normal basis of admission is to the institute or to the specific course. She contends that the course she took, FETAC Level 5 Childcare, requires students to hold at least a FETAC Level 4 certificate, a Leaving Certificate or equivalent to join the course. (A Leaving Certificate signifies graduation from the equivalent of Secondary School.) She asserts that the secondary education qualification is a preferred entry-level qualification for the specific course, which is therefore at the post-secondary level.

[17] The Appellant points out that the ECE Glossary of Terms describes a post-secondary institution as follows:

Post Secondary Institution: an accredited institution providing formal education following secondary education.

[18] She also points out that the ICES report evaluating her credentials states that her FETAC Level 5 Certificate in Childcare requires 12 full-time equivalent years at the primary and secondary level, and 1 year at the vocational level. The program she took was an optional level of education beyond that required by law in Ireland, where education is only compulsory up to age 16. Moreover, she

notes that the FETAC Level 5 Childcare program is approved by the Irish Government.

[19] Second, the Appellant challenges the finding that there were gaps in her training such that her training was not sufficient for full equivalency. In this regard, she contends that the Director recognizes her training amounts to at least partial equivalency, but he does not specify what in particular she is lacking.

[20] Indeed, she says, she is unable to ascertain from the ECE Registry website what are the specific number of hours required for each module or course needed to meet the requirements for the licence sought. In her research, she found only one document referencing the specific number of hours of study needed for ECE licensure, and it was contained in a decision of this Board. She argues that it is unfair to expect applicants to educate themselves to qualify for licensure when the requirements are not readily accessible and the available documentation may only set out guidelines that are not legally binding.

[21] The Appellant points out that the Glossary on the ECE Registry website states:

Basic Education: the education required to meet the academic requirements to become a licensed Early Childhood Educator. Typically, training requires 10 months or more of study.

[22] She submits that the course she took was a full-time academic year, consisting of 1,200 hours of study and met this typical requirement. In addition to the hours she accrued while engaged in the FETAC practicum and while working part time in ECE in Ireland before completing her training, she has over 3 years working experience in ECE in Japan and over 500 hours in B.C. She says that the course she took is broadly similar in content to a 1 year ECE course in B.C. and although she may have more hours in some area of study and less in others, in general her course meets equivalence standards.

[23] Third, the Appellant argues that she meets the equivalency criteria set out in an ECE Registry document titled "Selecting a Credential Evaluation Process". That document states, in part:

Equivalency is determined based on the following criteria:

- Some or all of the required instructional content have been covered (i.e. child development, child guidance, curriculum development, etc.).
- The training institution is recognized by the government of the province, state or country in which the training institution is based.

- The admission requirement for the program or course is the completion of secondary education or a school leaving certificate.
- The training was more than 120 hours of instruction.
- Ability to access transcript from training institution.

[24] According to that document, an applicant who meets all of the criteria may elect amongst 3 options to determine the equivalency of their out-of-country training. The Appellant elected "Option One", which was a credential evaluation by ICES. She notes that she has taken additional relevant courses, she has kept up her professional development and education in the field and she has acquired further relevant work experience. She asks to be granted a licence so she can continue to work in the vocational field of her choice.

### **The Respondent's Argument**

[25] In a June 10, 2011 response to the appeal, on behalf of the Respondent, Anne Wetherill, now Director of the ECE Registry, submits that the reconsideration decision should be upheld.

[26] The Respondent cites Sections 25 and 28 of the Regulation and the policies and procedures developed by the ECE Registry to determine equivalency of training. The Respondent says that its policies and procedures "must" consider certain factors. The ECE Registry now concedes that the FETAC Level 5 program has the necessary admission requirements of a school Leaving Certificate. Therefore, the only remaining factor to consider is the following:

- 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 the training must meet a minimum of 80% of the instructional hours and course competencies.
  - Partial equivalency is granted when less than 80% but more than 50% of the instructional hours and competencies have been met.
  - No equivalency is granted when less than 50% of the instructional hours and competencies have been met.

[27] The Respondent advises that despite the Director's decision not to grant the Appellant an ECE – 1 year certificate, the ECE Registry continued to actively research her training. The primary documents it used were the ICES credential evaluation report and the completed Program Confirmation. It reviewed these documents as well as course outlines obtained from the FETAC website.

[28] The Respondent notes that the Appellant's training program was 9 months in length and 1020 instructional hours. Training programs approved by the ECE Registry are required to provide a minimum of 902 hours of instruction, which typically require 10 months of training.

[29] As a result of its ongoing research, the Respondent advises that the Appellant has been granted full equivalency for the following academic areas:

- Child Growth and Development
- Program Development/Curriculum and Foundations
- Basic Health, Safety and Nutrition
- Interpersonal Skills/Community Relations/Interacting with Families

[30] However, the Appellant has not been granted full equivalency for:

- "Basic Practicum"

[31] The Respondent indicates that 425 hours of instruction are required for this academic area. The Appellant completed 4 weeks of instruction in this area, according to a FETAC Level 5 award outline. Assuming a 40 hour week, this equates to approximately 160 hours of practicum. All of the required competencies in this area have been met, but only 38% of the instructional hour requirements. Accordingly, no equivalency has been granted for this academic area.

[32] The Respondent advises that the Appellant would need to complete one or two additional practicums, depending on the training institution, and on completion of additional practicum hours, the Appellant will have completed that academic requirement for certification as an Early Childhood Educator.

[33] The ECE Registry also advises that, as a result of the review, the Appellant is eligible for certification as an Early Childhood Educator Assistant and has so advised the Appellant.

[34] Additionally, the Respondent provides a detailed response to the Appellant's submissions. In view of the outcome of this appeal, I will only address the submissions relevant to that outcome, although I have considered all of them.

[35] With respect to the difference between the bases for the ECE Registry's original decision and its reconsideration decision, the Respondent says that as a part of the assessment process the ECE Registry continues to research and analyse the information gathered about an applicant's training. It also endeavours to provide as much information to an applicant when an application is denied. Hence the two decisions may vary. Moreover, the ECE Registry's additional research confirmed that the overall standard for admission to FETAC

Level 5 was a school leaving certificate (which also confirmed that the program was at a post-secondary level).

[36] In response to the Appellant's argument that her training should be considered equivalent, the Respondent points to the factors it considered when determining equivalency. It acknowledged that the documents titled "BC Child Care Competencies" and "Linking Competencies" were currently available from the ECE Registry by request, and were not accessible on-line.

[37] With respect to the Appellant's submission that the hours the ECE Registry lists as being required for certification is not legally binding, but serves as a guide, the Respondent cites a decision of this Board which states, in part, that the ECE Registry's equivalency policies and procedures "are not legally binding, [but] may provide assistance in applying the provisions of the *Child Care Licensing Regulation*." This, the Respondent says, indicates that they could assist in determining equivalency.

[38] In response to the Appellant's request that her work experience in early childhood education be counted towards meeting any outstanding academic requirements, the Respondent argues that Section 28 of the Regulation does not permit it to consider work experience in determining equivalency.

[39] In response to the Appellant's submission that, based on the document titled "Selecting a Credential Evaluation Process", she met all the requirements for certification, the Respondent points out that the document was used to outline to individuals trained in another country the options available for assessing their credentials in order to apply for certification. Until one of the credential evaluation processes is completed and the ECE Registry assesses the application, there is no guarantee the applicant will be eligible for certification.

[40] With respect to the Appellant's evidence about her continued training and development, the Respondent commended the Appellant, but submitted that only credit course work completed at a recognized post-secondary training institution can be counted towards meeting academic requirements.

[41] In summary, the Respondent maintains that the Appellant's training meets some, but not all, of the academic requirement for licensure as an ECE Educator, and in particular, she has not met the academic requirements for practicums, as less than 50% of the required instructional hours have been covered.

## **DISCUSSION AND ANALYSIS**

[42] The Community Care and Assisted Living Appeal Board decides the merits of each appeal based on the evidence and argument provided by the parties. Section 29(11) of the Act states:

29(11) 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.

[43] Section 29(12) of the Act states:

29(12) 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 decision is under appeal.

[44] The issues in this case relate to whether the Appellant's training was at a post-secondary level and whether her training qualified as full equivalency to training provided by an educational institution listed in Item 1 of Schedule D to the Regulation.

[45] As noted above, the Director, in his reconsideration decision dated January 19, 2011, found that the Appellant's training was not considered post-secondary education in British Columbia. As a result of further consideration, the ECE Registry determined that the FETAC Level 5 program qualifies as post-secondary education. That change in view appears to be based on the conclusion that the specific program requires at least a Leaving Certificate or equivalent. I note the Appellant's argument that the ICES report states that the FETAC Level 5 certificate required 12 full-time equivalent years at the primary and secondary level and one year at the vocational level. Accordingly, I agree that the program qualifies as post-secondary education and, since the Respondent has conceded that point, I give no further direction in that regard.

[46] With respect to the remaining issue, whether the Appellant should have been granted full equivalency for her training, I note that the Director, in his reconsideration decision, found that the Appellant's training had gaps, he gave the example of insufficient practicum hours, and he concluded that her training as a whole did not meet the necessary requirements. The Appellant points out that the Director's reconsideration decision did not specify the way in which her qualifications were lacking, other than with respect to the practicum hours.

[47] The ECE Registry has undertaken further research and analysis, utilizing the BC Child Care Competencies and Linking Competencies documents. It now considers that the Appellant has full equivalency for all academic areas, except for the basic practicum and concludes that the Appellant has only 38% of the 425 instructional hours requirement for practicums. Accordingly, it maintains that full equivalency was properly declined for that academic area and for the Appellant's training as a whole.

[48] The Appellant points out that the policies and procedures relied on by the ECE Registry are not legally binding. She is correct in that regard. However, those policies and procedures do provide guidance. In that respect, I refer to and rely on the following passage from *AG (Certificate Applicant) v. Director, Early Childhood Educator Registry*, 2010 BCCCALAB 4, at paragraph 14, where the Board stated:



... The Board is aware that section 28 of that regulation states that an applicant must have completed a course or a 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, "B.C. Childcare 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*.

[49] In that case, the Board found that it was reasonable to interpret "a course" to mean a course of at least 30 hours instruction, given that most college courses are usually 30 or 45 hours in length. It found that it would be inconsistent with the relevant portions of the Regulation to find that 6 hours of instruction in child growth and development was equivalent to "one course" in child development, guidance, health and safety, or nutrition.

[50] In the instant case, I note that training programs approved by the ECE Registry are required to provide a minimum of 902 hours of instruction. Of this, 425 hours are to be comprised of practicum instructional hours. The number of practicum hours comprises approximately 47% of total instructional hours. This reflects that the ECE Registry accords significant weight to the practicum format of instruction.

[51] The Appellant indicates that she has undertaken approximately 1,200 hours of study over a ten month period. It is understood that four weeks of her instruction was comprised of practicum. According to the ECE Registry's calculations, and assuming this amounted to 160 hours of practicum, the Appellant completed only 38% of the instructional hours requirement doing practicums. This comprised approximately 13% of her total course hours. Evidently, the course she took did not accord as much significance to practicums as do the training programs approved by the ECE Registry.

[52] The training to be acquired in the practicum is substantial. According to the Linking Competencies document, the areas of study are described as follows:

**Practicum (min 425 hours):**

- supervised observation and practice in a variety of early childhood settings.
- seminar discussions between sponsor educators, students and practicum instructors.
- opportunities to experience different philosophies of early childhood education.

- opportunities to implement acquired knowledge and competencies in supportive environment.
- opportunities to analyze experiences through reflection, self-assessment and feedback.

[53] The ECE Registry is responsible for ensuring that certifications are granted to those assessed as properly trained to the appropriate equivalency levels. There is no dispute that the practicum is a necessary mode of instruction. I have no basis on which to find the weight the ECE Registry places on practicum is unreasonable.

### **DECISION**

[54] In view of the foregoing, I find that, in light of the significance placed on the practicum portion of training by approved training institutions and by the ECE Registry, and in view of the disparity between the number of hours of training the Appellant has in that regard compared to that required by approved training institutions, it is reasonable to rely on the policies and procedures utilized by the ECE Registry, as a guide. Accordingly, I find that although the evidence establishes that the Appellant has full equivalency in all other areas, there is not sufficient evidence of equivalency between the Appellant's academic training and the academic training provided by approved institutions to deem that the Appellant has full equivalency in the practicum area of instruction.

[55] However, I am concerned that the policies and procedures were applied in an unduly strict manner and did not allow exceptions in unusual cases. For example, a combination of options for demonstrating equivalency may be appropriate in circumstances where one option is not capable of yielding a full picture of an applicant's equivalencies. Here, the Appellant selected an option that did not yield information about the post-secondary status of the Appellant's educational courses and programs, but the Registry was subsequently able to obtain the necessary information, itself.

[56] The Appellant's case has certain unusual aspects that merit further consideration, including whether she has achieved the requisite training that would be supplied in a Practicum provided by an approved BC educational institution through her supplemental and on-the-job training. She appears to have a significant amount of supplemental training and experience through which she would have been exposed to the type of opportunities, observations, practices and discussions that are the subject matter of the Practicum. In my view, the Appellant should be permitted to avail herself of a combination of methods of assessing whether she has achieved the equivalent of the training in the Practicum area of instruction that is provided by approved institutions. This could include use of the second or third options described in Selecting a Credential Evaluation Process or, alternatively, use of a suitable alternate means of establishing equivalency that is acceptable to the Registry.

[57] Accordingly, I grant the appeal as it relates to the question of practicum equivalency, to the extent described.

[58] In the circumstances, I direct that the matter be returned to the ECE Registry for reconsideration if and when:

- (a) the Appellant provides the results of a credential evaluation process to evaluate whether her current training and knowledge meets the training requirements for Practicum, which process may be one of the options set out in the Registry's Policy or a suitable alternate process acceptable to the Registry;
- (b) provided that the Appellant obtains the results of the credential evaluation process at her own cost and supplies them to the Registrar within one (1) year of the date of this Decision.

"Alison H. Narod"

Alison H. Narod, Panel Chair  
Community Care and Assisted Living Appeal Board

November 29, 2011