

# MEMORANDUM OF AGREEMENT

**B E T W E E N :**

**Ontario College of Teachers**

**- and -**

**Daniel Arbour**

**WHEREAS** Daniel Arbour is a member of the Ontario College of Teachers (Registry number 286964);

**AND WHEREAS**, W. Douglas Wilson, Registrar and Chief Executive Officer, initiated a complaint on March 24, 2004, with respect to the conduct or actions of Daniel Arbour;

**THE PARTIES** to this agreement are the Ontario College of Teachers (the "College") and Daniel Arbour (the "member"). The Registrar's signature on this Memorandum of Agreement (the "MOA") does not bind the Investigation Committee in its function to consider and dispose of this matter.

**WHERE THE INVESTIGATION COMMITTEE** requests modifications to this MOA, the Dispute Resolution Administrator will consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, the revised MOA becomes final and binding once ratified by the Investigation Committee.

**WHERE THE INVESTIGATION COMMITTEE** does not ratify the MOA or the parties do not accept the modifications, the complaint proceeds through the investigation process and will be considered by a differently constituted panel of the Investigation Committee. The second panel of the Investigation Committee will not be provided with nor will it consider this MOA.

## Agreed Statement of Facts

The parties hereby agree to the truth and accuracy of the facts that are hereinafter expressed and agree to the receipt of this document by the Investigation Committee.

1. Daniel Arbour is a member of the Ontario College of Teachers (the "College").
2. At all material times, the member was a teacher and [\*\*] at [\*\*] (the "school"), in the Conseil scolaire de district des écoles catholiques du Sud-Ouest (the "board").

3. Commencing in or about May 2003, the member engaged in a sexual relationship with [\*\*], an [\*\*]-year old female student, both on and off school premises. The sexual relationship continued during the 2003/2004 school year when [\*\*] was no longer a student at the school.
4. On or about January 19, 2005, the mother of a friend of [\*\*]s reported to the superintendent that a sexual relationship had occurred between [\*\*] and the member.
5. On or about January 25, 2005, the board commenced an investigation into the matter, during which the member admitted that the sexual relationship with [\*\*] had occurred.
6. As a result of its investigation, the board suspended the member, without pay, from February 21, 2005, until the end of the first semester of the 2005/2006 school year.
7. The member voluntarily admits the above particulars and understands that by doing so, he is waiving the right to require the College to prove the allegations against him and the right to a hearing.

#### Joint Submission on Penalty

The parties agree to resolve the complaint as follows:

8. the member agrees and undertakes that upon ratification of this MOA, he shall resign his membership in the College, pursuant to subsection 14(2) of the *Ontario College of Teachers Act, 1996*;
9. the member agrees and understands that upon ratification of this MOA, the Registrar shall cancel his certificate of qualification and registration, pursuant to subsection 14(3) of the *Ontario College of Teachers Act, 1996*;
10. the member agrees and understands that upon ratification of this MOA, he shall immediately surrender his certificate of qualification and registration to the Registrar;
11. the member agrees and undertakes not to reapply for a certificate of qualification and registration for at least one year following ratification of this MOA;
12. the member agrees and understands that should he apply for a certificate of qualification and registration, the Registrar shall review this MOA in considering the member's application, pursuant to section 18 of the *Ontario College of Teachers Act, 1996*;

13. the member agrees and understands that upon ratification of this MOA, the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, shall include the following notation:

on (insert date of ratification by Investigation Committee), the member resigned his membership in the Ontario College of Teachers and the Registrar cancelled his certificate of qualification and registration. At the time of the resignation, a professional misconduct investigation was in progress regarding the member's sexual relationship with an [\*\*] year old female student;

14. the member agrees and understands that the College shall publish his name with a summary of the complaint and its resolution as contained in this MOA. Such publication shall be made in the College's official publication, *Professionally Speaking/Pour parler profession*, on the College web site, and in such other manner as the Registrar and Chief Executive Officer deems appropriate;
15. the member agrees and understands that upon ratification of this MOA, the College shall maintain a copy of the Decision of the Investigation Committee, including this MOA, in the College's Margaret Wilson Library. The Decision will be available for review by the public;
16. the member agrees and understands that upon ratification of this MOA, the College shall provide notice of the cancellation of the member's certificate of qualification and registration to those organizations routinely notified by the College of action, including but not limited to school boards, teacher federations or affiliates, and teacher licensing and governing bodies in Canada;
17. the parties agree and understand that if any phrase or paragraph of this MOA is deemed null and void, the MOA shall be read as though the phrase or paragraph was stricken from the MOA and the amended MOA shall remain in force and effect;
18. the member agrees and understands that this MOA is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this MOA;
19. the member agrees and understands that should he breach this MOA by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this MOA to any employer, licensing body, or education authority who inquires about the member's record with the College;
20. the member agrees and understands that, in the event he breaches a term of this MOA, the College may conduct an investigation or hearing into this matter as permitted under the *Ontario College of Teachers Act, 1996*;

21. the member agrees and understands that, in the event he breaches a term of this MOA, he is estopped from alleging, by way of defense, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date that the College becomes aware of such a breach;
22. the member agrees and understands that, in the event he breaches a term of this MOA, the College may provide the Investigation, Executive, Discipline, or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate; and
23. the parties agree and undertake that upon ratification of this MOA, there shall be no further action taken, no appeal of any or all of the terms of this agreement, and no application for judicial review, providing the terms of this MOA are complied with.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2005  
*Town/City Day of mo. Month*

\_\_\_\_\_  
 Witness Daniel Arbour

\_\_\_\_\_  
 Name of Witness - **Please Print**

Dated at Toronto this \_\_\_\_\_ day of \_\_\_\_\_ 2005  
*Day of mo. Month*

\_\_\_\_\_  
 Witness W. Douglas Wilson  
 Registrar and Chief Executive Officer

\_\_\_\_\_  
 Name of Witness - **Please Print**