

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against Mark Howard Barrey.

The Discipline Committee held a hearing on May 28, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**MARK HOWARD BARREY
CERTIFICATE #441922**

PRESENT:

Members of the Panel
Bernard Adam (Chair)
Guill Archambault
Janet Cornwall

The Honourable Lloyd Houlden, Independent Counsel to the Panel

David Leonard, McCarthy Tétrault, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk

Maurice Green, Green and Chercover, Counsel for the member

The member did not attend.

This decision is subject to a publication ban. On May 28, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the student involved in this matter.

A Notice of Hearing dated January 29, 2002 was served on Mark Howard Barrey, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 4, 2002 to set a date for hearing, and specifying the charges. The hearing date was eventually set for May 28, 2002.

It is alleged that Mark Howard Barrey is guilty of professional misconduct in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1 (5);
- (b) he abused a student or students physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, subsection 1 (7);
- (c) he failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsection 1 (14) and (15);
- (d) he committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1 (18); and
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19).

The Notice of Hearing states that Mark Howard Barrey is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On May 28, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Mark Howard Barrey was guilty of professional misconduct.

Mark Howard Barrey was not in attendance at the hearing, and was represented by Maurice Green, Green and Chercover.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that Mark Howard Barrey is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1 (5), (7) in that he abused a student or students sexually and emotionally, (14), (15), (18) and (19).

Counsel presented evidence that Mark Howard Barrey is a member of the Ontario College of Teachers. At all material times, the member was engaged by the Grand Erie District School Board as a supply teacher from September, 2000 to December, 2000 and

was later employed by the same Grand Erie District School Board and by the Peel District School Board as a teacher.

Exhibit #1, Particulars of the Allegations, was submitted by counsel. Mark Howard Barrey pleaded no contest in this document.

FINDINGS OF FACT:

Based on Exhibit #1, the panel finds the following facts:

- (1) Mark Howard Barrey, whose date of birth is January 17, 1970, is a member of the Ontario College of Teachers. Prior to an interim suspension of his Certificate of Qualification on December 3, 2001, the member was in good standing with the College.
- (2) The member was engaged as a student teacher by the Grand Erie District School Board from September 2000 to December 2000, before he became qualified as a teacher in February 2001. While he was a student teacher, the member taught from September 5, 2000 to October 24, 2000, at Cayuga Secondary School, Cayuga, Ontario, and then at McKinnon Park Secondary School in Caledonia, Ontario.
- (3) The member was employed as a teacher by the Grand Erie District School Board from December 2000 to October 19, 2001 and taught at secondary schools in Brantford and Hagersville, Ontario.
- (4) On or about October 19, 2001, the member resigned from the Grand Erie District School Board to take up a position with the Peel District School Board.

- (5) At all material times, [REDACTED], whose date of birth is [REDACTED], was a female student at Cayuga Secondary School, and was in Grade 12 during the 2000-2001 school year at the same time that the member was engaged as a student teacher at that school.
- (6) During the time that the member was a student teacher at Cayuga Secondary School, he met [REDACTED], who was a student in his class and began a relationship with [REDACTED]
- (7) During late 2000 and into the early months and Spring of 2001, the member developed an inappropriate personal relationship with [REDACTED]
- (8) During the month of July, 2001 and early in the month of August, 2001, the member visited [REDACTED] on several occasions while she was temporarily residing at her older half-sister's residence in Dunnville, Ontario, in which town she was working at a part-time job.
- (9) During the month of July, 2001, the member engaged in several long-distance telephone calls with [REDACTED], which were placed to him at his residence in Caledonia by [REDACTED], from her older half-sister's residence [REDACTED] in Dunnville. Some of the telephone calls were lengthy and made late at night, or early in the morning, due in part to [REDACTED]'s work schedule.
- (10) On or about August 6, 2001, the member engaged in sexual intercourse with [REDACTED], who was then 17 years old, at the home of [REDACTED]'s older half-sister in Dunnville.
- (11) Following that incident, the member continued the inappropriate relationship with [REDACTED] during which he encouraged her to meet with him after school, on evenings and on weekends.

- (12) On or about September 13, 2001, [REDACTED] had a tattoo done on the small of her back. The member subsequently wrote a note to [REDACTED] which stated, "I'm sorry if I got you in trouble tonight. I had to call to see if I could see you. I really want to see your tattoo. My love for you grows each day. I am nothing without you. All my love, Mark xoxoxo".
- (13) The member and [REDACTED] continue to see each other in an apartment, which they have jointly leased in the City of Hamilton.
- (14) The Committee accepted the Particulars of the Allegations document.

Based on the exhibits filed and submissions by Counsel, the Committee accepts Mark Howard Barrey's plea of no contest regarding the particulars of the allegations. The Committee accepts that those facts constitute professional misconduct and that the member is guilty under subsections 1 (5), (14), (15), (16), (18) and (19) of the Professional Misconduct Regulation.

DECISIONS AND ORDERS:

Based on the exhibits filed and submissions by Counsel, the Committee finds Mark Howard Barrey guilty of professional misconduct under subsections 1 (5), (7), (14), (15), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke the member's Certificates of Qualification and Registration immediately.

The Committee is of the view that revocation is the most appropriate penalty in this case in that it affords adequate protection to the public and to students. Further, the Committee recognizes that there is a provision under the statute whereby the member may apply for reinstatement and that the responsibility is on the member at that time, to demonstrate that the risk of re-offending is negligible. The onus is also on the member to be cognizant of appropriate student/teacher relationships and boundary-related issues. At the time of registration, every member receives documents outlining the roles and responsibilities and the standards of practice as governed by this College.

Pursuant to section 30(5)(iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 30th DAY OF AUGUST, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE**

Bernard J. Adam, **Chair**

Guill Archambault

Janet Cornwall