

DISCIPLINE COMMITTEE
ONTARIO COLLEGE OF TEACHERS

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

AND IN THE MATTER OF discipline proceedings against Michael Bath.

The Discipline Committee held a hearing on June 10, 2003,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

MICHAEL BATH
Certificate #258280

REASONS FOR DECISION, DECISION AND ORDERS

PRESENT:

Members of the Panel

Nancy Hutcheson (Chair)
Bernard J. Adam
Diane Leblovic

Nancy Spies of Stockwoods, Independent Legal Counsel to the Committee

Carole Jenkins, McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Joshua Phillips, Green & Chercover, Counsel for Michael Bath

Michael Bath was present.

This matter came before a panel of the Discipline Committee for a hearing on June 10, 2003 at the Ontario College of Teachers at Toronto.

A Notice of Hearing, dated November 4, 2002 was served on Michael Bath, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 4, 2002 to set a date for a hearing, and specifying the charges.

Michael Bath was in attendance at the hearing. Proof of service of the Notice of Hearing was presented and accepted by the panel. (Exhibit 1)

The Allegations

The allegations against Michael Bath in the Notice of Hearing dated November 4, 2002 are as follows:

IT IS ALLEGED that Michael Bath is guilty of professional misconduct and/or is incompetent as defined in sections 30(2) and (3) of the Act, 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 particularly section 264 (1) (c) thereof,

and the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 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);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (f) he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of his students of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

Member's Plea

The Member admits that the matters referred to in paragraphs 3, 4 and 6 of the Agreed Statement of Facts constitute Professional Misconduct and pleads guilty to the allegations of Professional Misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (5) and (18) as set out in the Notice of Hearing dated November 4, 2002.

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced as Exhibit 2 an Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty, which provides as follows:

1. Michael Bath ("the Member") is a member of the Ontario College of Teachers. The Member has been teaching full time since 1980 and has been a certified teacher since 1982.
2. At all material times, the Member was employed by the Peel District School Board ("the Board") and was a Grade 10 teacher at [XXX] School ("the School").
3. On or about May 10, 2001, a male student ("the student") in the Member's Grade 10 class, refused to stop the switching on and off of the light and P.A. switches in the classroom, notwithstanding requests by the Member that he stop. The Member requested several times that the student move to the front of the class. When the student refused to comply, the Member approached the student's combination desk/chair, and picked up the desk/chair where the student was still seated. The desk/chair combination tipped over and the student and the desk/chair combination fell to the floor.
4. The male student began to use vulgar language in the classroom, including swearing at the Member. The Member instructed the student to leave the classroom and to go to the office. The student left the classroom momentarily, but returned on three occasions, using abusive language towards the Member. The Member again instructed the student to report to the office. The student left the classroom but did not report to the office as instructed. At the end of the class, the Member found the student outside of the portable classroom. The

Member grabbed the student's wrists. The student struggled and eventually fell to the ground. The student did not sustain any injury to his person.

5. The Member had, as far back as 1996, undergone [XXX]. After the incident on May 10, 2001, the Member [XXX].
6. Prior to this incident, the Member had been made aware of appropriate methods for handling students who present classroom management and discipline challenges. The Member acknowledges that he showed a lack of judgement in his handling of this matter, and that he did not implement acceptable strategies and methods to deal with the situation.
7. The Member admits that the matters referred to in paragraphs 3, 4 and 6 above constitute Professional Misconduct and pleads guilty to the allegations of Professional Misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (5) and (18) as set out in the Notice of Hearing dated November 4, 2002.

Decision

Based on the Agreed Statement of Facts and submissions by counsel, the panel finds that Michael Bath is guilty of Professional Misconduct under subsections 1 (5) and (18) of the Professional Misconduct Regulation as alleged.

Penalty

Counsel for the College advised the panel that a Joint Submission as to Penalty had been

agreed upon, in part. The outstanding issue was whether the Member's name should be published in *Professionally Speaking/Pour parler profession*.

The Joint Submission as to Penalty provides as follows:

In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of Professional Misconduct, and jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:

- (a) require the Member to appear before the Committee to be reprimanded, and that the fact of the reprimand be recorded on the Register;
- (b) require the Member to receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students. The College will consider programs suggested by the Member and will convey acceptability expeditiously. The assignment of such course of instruction is to be completed by the Member at the Member's own expense and proof of the Member's successful completion of such program is to be received by the Registrar of the College from the Member by December 31, 2003; and
- (c) direct that the findings and order of the Committee be published in the official publication of the College, *Professionally Speaking/Pour parler profession*.

The parties were not in agreement upon the nature of publication and submissions were made to the Discipline Committee on this issue.

Penalty Decision

The panel accepts the Joint Submission as to Penalty and accordingly orders that the Member appear before the Committee to be reprimanded immediately upon adjournment of this hearing, and the fact of the reprimand shall be recorded on the Register.

The panel further orders that the Member receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students. The assignment of such course of instruction is to be completed by the Member at the Member's own expense and proof of the Member's successful completion of such program is to be received by the Registrar of the College from the Member by December 31, 2003.

Having heard submissions by counsel regarding publication, the Committee orders that pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, that the findings of this hearing, as well as the name of the member, be published in summary in the official publication of the Ontario College of Teachers, *Professionally Speaking/Pour parler profession*, but that the Member's [XXX] information not be published, so as to preserve the privacy interest of the Member.

The Committee notes that this non-publication of [XXX] information is appropriate in this limited circumstance as the information was not a significant factor in the Committee's decision.

The Committee also orders that the name of the student not be published and that the student only be identified as a male student.

The Member did appear before the Discipline Committee to be reprimanded on June 10, 2003.

**DATED AT TORONTO, THIS 16TH DAY OF JULY, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE.**

Nancy Hutcheson, **Chair**

Bernard J. Adam

Diane Leblovic