

**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 Brian Charles Bender.

The Discipline Committee held a hearing on May 30, 2002,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**BRIAN CHARLES BENDER  
CERTIFICATE #141364**

**PRESENT:**

Members of the Panel

Guill Archambault (Chair)

Janet Cornwall

Paul Charron

The Honourable Lloyd Houlden, retired judge, 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 & Chercover, Counsel for the member

Brian Charles Bender

This decision is subject to a publication ban. On May 30, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the child victim involved in this matter.

A Notice of Hearing, dated February 12, 2002 was served on Brian Charles Bender, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 25, 2002 to set a date for hearing, and specifying the charges. The hearing date was set for the week of May 29, 2002.

It is alleged that Brian Charles Bender 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 failed to comply with the Act or the *Education Act*, Revised Statutes of Ontario, 1990, c.E2 and particularly, section 264(1)(c) thereof or the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (c) he contravened laws the contravention of which are relevant to the member's suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (d) he performed acts or omissions 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 Brian Charles Bender is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On May 30, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Brian Charles Bender was guilty of professional misconduct. Brian Charles Bender was in attendance at the hearing, and was represented by counsel.

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that Brian Charles Bender 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), (14), (15), (16), (18) and (19).

Counsel presented evidence that Brian Charles Bender is a member of the Ontario College of Teachers. At all material times, the member was employed by the Peel Board of Education, now the Peel District School Board, as a teacher.

A written plea of no contest was entered as Exhibit #1. In this document, the member pleaded no contest to a number of items, including:

1. Brian Charles Bender is a member of the Ontario College of Teachers.

2. At all material times, the member, whose date of birth is [XXX], was employed as a teacher with the Peel Board of Education, now the Peel District School Board. The member [XXX] Brampton, between 1976 and 1980. The member had obtained his Ontario Teacher's Certificate on or about April 28, 1976.
3. At all material times, [XXX], a male person, whose date of birth is [XXX], was between [XXX] years of age. [XXX]'s father had passed away in [XXX] and it was arranged for the member to be appointed, through [XXX] Organization in Brampton, as a [XXX] to [XXX]
4. During the fall of 1977, approximately four weeks after being introduced to [XXX], the member took [XXX] to the member's family cottage on Horseshoe Lake near Parry Sound where the member sexually assaulted [XXX] in that he:
  - (a) placed his hand down the front of [XXX] pajamas and fondled the penis of [XXX]; and
  - (b) requested that [XXX] fondle the member's penis.
5. The member further sexually assaulted [XXX] between ten and fifteen times when acts of a similar nature to those described in paragraph 4 above took place at various locations including the member's residence in Brampton, the home of the member's parents in Kitchener and the member's family cottage near Parry Sound.
6. Charges were not laid against the member in 1980 in respect of the assaults against [XXX] described in paragraphs 4 and 5 above, but were later laid in October, 2000.
7. On or about October 24, 2000, the member was charged with committing an act of gross indecency between May 1, 1977, and November 13, 1977, at the

Township of [XXX] in the northeast region of Ontario, with [XXX], contrary to Section 157 of the *Criminal Code of Canada*.

8. On or about January 16, 2002, the member pleaded guilty in the Ontario Court of Justice to the charge referred to in paragraph 7 above. He was given a conditional sentence of nine months and as well, was placed on probation for a period of fifteen months.

**FINDINGS OF FACT:**

1. The Committee accepted the plea of no contest regarding the particulars of the allegations.
2. The Committee also 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, as alleged.

**DECISIONS AND ORDERS:**

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

Based on the evidence presented regarding the rehabilitation process that Brian Charles Bender has undergone since 1980 and the psychiatrist's report dated August 3, 1982, the

Committee is of the opinion that the member poses little risk of reoffending.

Accordingly, the Committee directs the Registrar to suspend Brian Charles Bender's Certificates of Qualification and Registration for a period of twenty-four months, that suspension to commence on the effective date of the interim suspension imposed, February 8, 2002.

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, *Professionally Speaking/Pour parler profession*.

The Committee also orders that, in any publication, the name of the child victim not be published and that he may only be identified by two initials as [XXX]

**DATED AT TORONTO, 24th DAY OF JUNE, 2002  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Guill Archambault, **Chair**

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Janet Cornwall

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Paul Charron