

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against Joan Teresa Bennett, a member of the Ontario College of Teachers.

PANEL: Gabrielle Blais, Chair
 Tianna Travaglini-Babic
 Jacques Tremblay

BETWEEN:	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
	)	Kate Hughes and Brian Hanulik,
JOAN TERESA BENNETT	)	Cavalluzzo Hayes Shilton
(CERTIFICATE # 179581)	)	McIntyre & Cornish LLP
	)	for Joan Bennett
)	
	)	Scott Hutchison,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: May 14 & 15, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on May 14 and 15, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 17, 2005 (Exhibit 1) was served on Joan Teresa Bennett (the “Member”), providing her with notice that the Discipline Committee of the Ontario College of Teachers would meet on July 11, 2005 to set a date for a hearing, and specifying the charges. The Discipline Committee subsequently set May 14, 2007, as the date for the hearing on the merits.

The hearing took place on May 14, 2007 at which time the Committee received the Agreed statement of Facts, the other exhibits, and heard submissions by the parties on the issue of penalty. The hearing resumed on May 15, 2007, at which time the Committee rendered its decision orally and reserved its reasons for decision. These are those reasons.

Joan Teresa Bennett was in attendance at the hearing on both dates.

THE ALLEGATIONS

The *Notice of Hearing* sets out the following allegations:

IT IS ALLEGED that Joan Teresa Bennett is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 437/97, subsection 1(11);
- (c) she falsified a record relating to her professional responsibilities, contrary to Ontario Regulation 437/97, subsection 1(13);
- (d) she 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, subsections 1(14) and (15);

- (e) she 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
- (f) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on May 14, 2007 College counsel sought to withdraw the following particulars contained in paragraphs (c), (d) and (e) of the *Notice of Hearing* being alleged breaches of Ontario Regulation 437/97, subsections 1(13), 1(14), 1(15) and 1(18). The Committee agrees that these allegations shall be withdrawn.

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty. (ASF – Exhibit 2)*

The *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty* provides as follows:

AGREED STATEMENT OF FACTS

The Member

1. Joan Bennett is a member of the Ontario College of Teachers (the “Member”). Attached and marked as Exhibit “A” is a copy of the Ontario College of Teachers Registered Member Information in respect of the Member.
2. The Member has been an educator for 24 years. She has worked for three different boards of education within the Province of Ontario including the London-Middlesex District School Board, the Peel District School Board and most recently and currently, the Hastings and Prince Edward District School Board (the “Board”). Other than the events of October 2003 described below, the Member has had an unblemished career.

3. In 2001 the member was promoted by the Board to the position of Vice Principal. During the 2003-2004 academic year, the Member was employed by Board as the Vice-Principal of Moira Secondary School (“Moira”) in Belleville, Ontario.

Background

4. Commencing in or around the 2001-2002 school year, the Grade 10 Ontario Secondary School Literacy Test (the “OSSLT”) was made a requirement for students in the Province of Ontario who entered Grade 9 in a given school year and who were working towards obtaining an Ontario Secondary School Diploma.
5. Since that time, the OSSLT has been administered on an annual basis at the direction of the Education Quality and Accountability Office (“EQAO”).
6. In October 2003, the eligible candidates for the OSSLT were:
 - (a) students who entered Grade 9 in the 2002-2003 school year;
 - (b) students who did not pass the reading and/or writing component of the OSSLT in 2002;
 - (c) students who were absent or were deferred from taking the OSSLT in 2002; and
 - (d) students who were exempted from taking the OSSLT in 2002 but were, in October 2003, working towards an Ontario Secondary School Diploma.
7. The EQAO provided detailed written instructions to schools with respect to the procedure for the proper administration of the OSSLT, including the EQAO Guide For Administering The Ontario Secondary School Literacy Test (the “Guide”), attached as **Exhibit “B”**. One copy of these instructions and the Guide were provided to Moira and were available for review. An individual copy of these documents was not given to the Member.
8. The procedures were summarized in other documents, including the Teacher’s Daily Script, which included instructions that students writing the OSSLT were to be handed a test booklet at the beginning of each section of the OSSLT and that sixty minutes after starting the test, students were to be instructed to seal their test booklet with a seal which was provided with the booklet.
9. The procedures allowed for students with special needs to receive certain forms of accommodation, including being granted additional time, a favourable writing environment, or having “scribes” assigned to assist in recording the student’s test responses in the testing process.
10. The Guide, at pages 5 – 21, provides a detailed “Responsibility Checklist” for the entire process of administering the test, which makes it clear that the each school’s principal had primary responsibility for the proper administration of the

test. The EQAO summarised the “Principal’s Role” at page 32 of the Guide, as follows:

The Principal’s role encompasses seven key elements:	
1.	Identify and document student eligibility, as well as facilitate decision making on student eligibility, exemptions, deferrals, accommodations and special provisions.
2.	Ensure the training and supervision of teachers administering the test and of staff managing the materials and assist with accommodations for students with special needs.
3.	Ensure that all students have access to the student preparation materials on the EQAO Web site and to teacher support in using those materials.
4.	Ensure appropriate test conditions.
5.	Ensure the confidentiality and security of test materials.
6.	Receive and account for all test materials and ensure that the assessment materials are kept in a secure location.
7.	Return all necessary materials to the EQAO immediately following the administration of the OSSLT

11. The responsibilities of the teachers administering the test are also clearly set out in the Guide, and include ensuring that the test is administered according to the procedures in the Guide. The Guide identifies the role of teachers administering the OSSLT as follows:

Before the Test

- Provide a positive atmosphere to encourage and support students.
- Ensure the security of all administrative and test materials. Do not copy the test materials or read or show them to anyone.
- Review your school or board emergency procedures.
- Review the Teacher’s Script for OSSLT Information Sessions. The script is provided to ensure that all students receive the same information prior to the test.
- Read the script to the students at the information session(s), if assigned by the principal. (Please use the overheads of Appendix A.)

- Organize the room(s) for the test to ensure that students work independently. They must not be able to see other students' answers.
- Remove from the walls and display areas in the test administration rooms any instructional materials related to reading or writing (e.g. EQAO Tips for Student Reading and Tips for Student Writing or any rules related to writing conventions). Remove dictionaries and thesauruses, as students are not allowed to use them.
- Each morning of the test, pick up the completed STS and the corresponding bundled sets of test materials required for the test administration.

During the Test

- Ensure that the test is administered according to the procedures in this guide.
- Follow the policy for late and absent students.
- Follow the directions outlined in the *Guide for Accommodations, Special Provisions, Deferrals and Exemptions* when assisting students receiving accommodations. Do not provide assistance to students unless accommodations have been granted in accordance with the *Guide for Accommodations, Special Provisions, Deferrals and Exemptions*.
- If applicable, oversee the work of non-teaching personnel who are providing support to students requiring accommodations or special provisions.

After the Test

- Count all student materials.
- Return *all* test booklets, used *or* unused, the Student Questionnaires and the STSs to the principal immediately.

Events at Moira in October, 2003

12. On October 22 and 23, 2003, the OSSLT was administered at Moira.
13. At Moira, of the 165 students writing the 2003 OSSLT, approximately 45 students received time accommodation, and 24 students had scribes assigned. As is shown by the chart attached as **Exhibit "C"**, the percentage of students at Moira who received accommodation was not unusual within the Board. While the Member had no direct personal knowledge of this information, she accepts that it is accurate.

14. As established by the EQAO Guide, the Principal of the school had primary responsibility for the overall administration of the OSSLT at the Moira. Moira's Principal, Diane Fair ("Ms Fair"), the Member, Moira's Interdepartmental Head of the Special Education, Kelly Pickard ("Ms Pickard"), and Moira's Literacy Co-ordinator and representative on the Hastings and Prince Edward County District School Board Literacy Subject Counsel, Kim Gartenburg ("Ms Gartenburg"), all had responsibilities and/or engaged in activities associated with preparing for and/or administering the test.
15. The Member did not have any specific duties assigned to her in respect to the OSSLT. Rather, the Member continued her regular Vice Principal duties (hallway supervision, student discipline, parent contacts, etc...), thereby ensuring that those students not involved in the OSSLT carried on their normal activities without disrupting the OSSLT process. During the two days of testing, the Member offered her assistance, when she was able, to those administering the OSSLT and responded to their requests to assist as necessary.
16. Prior to the start of the second day of testing, the Member was present when Ms Pickard:
 - (a) contrary to EQAO instructions, told the scribes and perhaps others involved in the administration of the tests (including a Board Superintendent who was acting as a scribe) and the Member not to seal the tests after the students were finished writing; and
 - (b) encouraged the scribes to "do the best job they can" for the students, which comment was interpreted by some in attendance (none of whom sought clarification from the Member or Ms Pickard) as an instruction by Ms Pickard to provide the students with inappropriate assistance during the testing.
17. Having heard Ms Pickard give the instructions described in paragraph 16 above, and knowing those instructions were contrary to the express EQAO instructions and the spirit of those instructions, the Member did nothing to prevent Ms Pickard from making those statements or to correct those statements. The Member acknowledges that by being present when Ms Pickard made those statements and taking no action, she was signalling to those present her approval of and agreement with Ms Pickard's statements.
18. On the second day of testing, contrary to EQAO instructions, with Ms Fair, Ms Pickard, Ms Gartenburg and perhaps others, the Member went through the test booklets, after the students had finished and left the testing area, to ensure they were complete. Where incomplete test answers were found, arrangements were made for the student to return to complete the test answers. Ultimately the test booklets were sealed.

19. The Member acknowledges that by being present for and participating in the activities described in paragraph 18 above, she was signalling to those present her approval of and agreement with actions being taken by her and others.
20. Following a review of the irregularities that occurred at Moira in relation to the administration of the 2003 EQAO literacy test, the EQAO determined that the irregularities did not lead to a different pass/fail outcome for any Moira student and that there was no adverse effect on any student.
21. The Member was eligible to be appointed to the position of principal with the Board effective September, 2004. As a result of her role in the events at Moira in October, 2003, the Member's eligibility has been suspended by the Board and remains suspended pending the outcome of these proceedings.
22. The Member is considered by a great many in her professional community to be a dedicated, capable and caring Vice-Principal.

GUILTY PLEA

23. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 22 above (the "Admitted Facts"). The Member hereby acknowledges that the Admitted Facts, and in particular the facts referred to in paragraphs 16 to 19 above, constitute conduct that is unprofessional and pleads guilty to the allegations of professional misconduct as defined in Section 30(2) of the *Ontario College of Teachers Act, 1996*, in that she breached Ontario Regulation 437/97 sections 1(5), 1(11) and 1(19).
24. The Member states that:
 - (a) she understands fully the nature of the allegations of professional misconduct against her;
 - (b) she understands that by pleading guilty to these allegations, she is waiving the right to require the College to prove the case against her and the right to have a hearing;
 - (c) she voluntarily decided to plead guilty the allegations; and
 - (d) she understands and acknowledges that she is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.
25. In light of the Admitted Facts and circumstances, and in particular the facts set out in paragraphs 16 to 19 above, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

26. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:
- (a) requires the Member to appear before the Committee immediately following the completion of the hearing of this matter, to be reprimanded and that the fact of the reprimand be recorded on the public register of the Ontario College of Teachers;
 - (b) directs that the findings and Order of the Committee, including the Member's full name, be published in summary in the official publication of the College, Professionally Speaking/Pour parler profession.

MEMBER'S FURTHER SUBMISSION ON PENALTY

27. In addition to the penalty set out in paragraph 26 above that the parties have agreed to, the Member submits that the appropriate further penalty to be imposed by the Discipline Committee in this matter would be that the Committee:
- (a) directs that the Registrar suspend the Member's Certificate for a period of three and one-half months, commencing on May 15, 2007 and ending on August 28, 2007, and the fact of the suspension be recorded on the public register of the College;
 - (b) directs that the Registrar suspend the Member's Certificate for a period of three and one-half months, commencing on September 1, 2008 and ending on December 14, 2008, and the fact of the suspension be recorded on the public register of the College. However, if the Member fulfills the requirements of paragraphs (c) to (e) below, the suspension will be suspended and will never take effect;
 - (c) the Member must enrol in and complete, at her own expense, prior to August 15, 2008, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession;
 - (d) the Member must provide 240 hours of unpaid work to the students and teaching community over the next twelve months in a program acceptable to the Registrar, which will not include any activities that the Member would ordinarily carryout or be required to carryout by the Board as part of her duties as a Vice Principal, and which activities may include:
 - (i) providing support to the Board in order to establish a "Justice Circle" program;

- (ii) providing services establishing a homework club for at risk secondary students and/or a weekend drop-in centre to address identified problems in the Belleville and Trenton secondary school community; and
 - (iii) providing services to assist new administrators in their ongoing professional development, such as through the Ontario Principals' Council or the Board; and
- (e) directs that the Member shall provide to the Registrar proof of successful completion of the course referred to in (c) above prior to August 15, 2008 and proof of completion of the 240 unpaid hours of service to the community referred to in (d) above by August 15, 2008.

ONTARIO COLLEGE OF TEACHERS FURTHER SUBMISSION ON PENALTY

28. In addition to the penalty set out in paragraph 26 above that the parties have agreed to, the College submits that the appropriate further penalty to be imposed by the Discipline Committee in this matter would be that the Committee:
- (a) directs that the Member's Certificate be suspended for a period of seven months, commencing on May 15, 2007, and the fact of the suspension be recorded on the public register of the College. However, if the Member fulfills the requirements of paragraphs (b) to (c) below, the suspension will end on October 14, 2007 and the remaining period of suspension, from October 15, 2007 to December 14, 2007, will be suspended and will only take effect if the Member does not fulfill the requirements of paragraph (b) to (c) below;
 - (b) directs that the Member must enrol in and complete, at her own expense, prior to September 15, 2007, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession; and
 - (c) directs that the Member shall provide to the Registrar proof of successful completion of the course referred to in (b) above prior to September 30, 2007.
29. By this document, the Member acknowledges her understanding that any agreement between the College and the Member with respect to the penalty proposed in this document does not bind the Discipline Committee.

DECISION

Having examined the Exhibits filed, and based on the plea of guilt, the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Joan Teresa Bennett committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) 1(11) and 1(19).

REASONS FOR DECISION

The Member acknowledged that her actions constituted conduct which is unprofessional and pleaded guilty to the allegations of professional misconduct.

As a member of the profession, the Member was expected to respect EQAO protocols in the administration of the literacy tests. While for the most part the Member was not actively involved in the administration of the EQAO testing, she did knowingly engage in activities that she knew were contrary to EQAO protocols. In particular, the Member went through the test booklets after the students had finished and left the testing area to ensure they were complete. Where incomplete test answers were found, arrangements were made for the students to return to complete the test answers before the booklets were sealed. By this action, the Member failed to maintain the standards of the profession.

As the vice-principal of the School, the Member has the responsibility to complete tasks assigned to her by the principal. The vice-principal also plays a leadership role with respect to staff members. In the case of the EQAO tests, the Member did nothing to prevent or correct the instructions given to scribes and to others by Ms Pickard, the Interdepartmental Head of Special Education, that she knew were contrary to EQAO guidelines. The Member has acknowledged that by being present when those statements were made and by taking no action she was signaling to those present her approval and agreement with the instructions being given. This failure to discharge her responsibility with regard to the protocols and procedures under which EQAO tests are expected to be administered constitutes professional misconduct. In doing so, the Member failed to supervise adequately staff under her professional supervision.

Members of the profession are expected to set a strong example of ethical behaviour. In this case, the Member's tampering with test booklets amounted to cheating and is contrary to the values of the educational system. Members of the profession as mentors and guides are expected to be models with respect to honesty generally, and academic honesty in particular. By her actions, the Member failed to live up to these expectations and caused members of the public to question the integrity of the educational system. The public has a right to have faith in the integrity of the process, ensuring that every student graduating from high school has achieved an adequate standard of literacy, without intervention. The Member's actions were inappropriate and unacceptable. As a result, the Member engaged in conduct unbecoming a member of the profession.

PENALTY DECISION

The Committee makes the following order as to penalty:

- (a) The Member is required to appear before the Committee immediately following the completion of the hearing of this matter to be reprimanded and the fact of the reprimand is to be recorded on the public register.
- (b) The findings and order of the Committee, including the Member's full name, will be published in summary, in the official publication of the College, *Professionally Speaking/Pour parler profession*.
- (c) The Registrar is directed to suspend the Member's Certificate for a period of six months, commencing on May 16, 2007, and the fact of the suspension is to be recorded on the public register of the College. However, if the Member fulfills the requirements of paragraphs (d) to (e) below, the suspension will end on September 14, 2007 and the remaining period of suspension, from September 15, 2007 to November 16, 2007, will be suspended and will only take effect if the Member does not fulfill the requirements of paragraph (d) to (e) below;
- (d) directs that the Member must enrol in and complete, at her own expense, prior to September 15, 2007, a course of instruction, pre-approved by the Registrar, regarding ethics in the profession; and

- (e) directs that the Member shall provide to the Registrar proof of successful completion of the course referred to in (d) above prior to September 30, 2007.

REASONS FOR PENALTY DECISION

The Committee agreed with the joint submission with respect to the penalty of reprimand and publication.

The reprimand by her peers serves as a specific deterrent to the Member. This censure on behalf of the profession and the public reinforces to the Member that her conduct was unacceptable.

Publication of the findings and order of the Committee, in summary, with the name of the Member, in *Professionally Speaking/Pour parler profession* provides both a specific deterrent to the Member and a general deterrent to the profession while advising and serving the public interest. It also reassures the public that the College will not tolerate cheating and will ensure that such misconduct is dealt with appropriately.

With respect to suspension, the Member proposed a suspension for a total of seven months that would be reduced to 3 ½ months if she successfully completed a course on ethics and completed 240 hours of unpaid work to students and the teaching community. The College on the other hand proposed a suspension for a period of seven months, to be reduced to five months upon successful completion of a course on ethics.

In considering these submissions, the Committee took into consideration that, in her leadership position, the Member did not dispute the directions being given and did not request that the EQAO protocols be properly followed. Her silence on the matter is alarming, particularly because of her apparent eligibility to become a principal. Furthermore, she participated in the review of the booklets to ensure that they had been completed by the students, an action that she knew contravened the EQAO protocol.

Nonetheless, the Committee recognizes that the Member did not have the primary responsibility for the administration and did not actively direct others to contravene the EQAO protocols. It also took into consideration the fact that the Member's eligibility for a principal's position was suspended by the Board pending the outcome of this hearing. This has had a significant financial impact on the member and has damaged her professional reputation.

The Committee determined that a six month suspension was appropriate given the Member's position of leadership and her involvement in the administration of the EQAO test. The length of the suspension reflects the seriousness of the misconduct as well as the Member's role of leadership, responsibility and authority within her school.

The Member needs to be reminded of the ethics of the profession and to reflect on them. The ethics course recommended will be rehabilitative and will help her understand the motivation for her misconduct, the impact it has had and why she should not engage in

similar behaviour in the future. Pre-approval of the ethics course by the Registrar and the Member's responsibility to report back to the Registrar supports transparency. The Committee recognizes the importance of the course and has agreed that two months of the suspension will be removed if the Member successfully completes such a course.

The Committee did not agree to the Member's suggestion of unpaid community work to reduce her suspension. This suggestion does not address the matter at hand and would not result in the Member's reflecting on her own behaviour. Furthermore it would impose responsibilities on the Registrar that fall beyond the mandate of the College.

In conclusion, the Committee is confident that the penalty serves the interests of the public, the profession and the Member.

Date: June 7, 2007

Gabrielle Blais
Chair, Discipline Panel

Tianna Travaglini-Babic
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel