

**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  
Derek Allan Boles, a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair  
Don Cattani  
Eileen Walker

BETWEEN:	)	
	)	Heather Meredith,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -	)	
	)	
DEREK ALLAN BOLES	)	Joshua Phillips,
(CERTIFICATE #103547)	)	Green & Chercover,
	)	for Derek Allan Boles
	)	
	)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: September 27, 2005

**REASONS FOR DECISION, DECISION AND ORDER (S)**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on September 27, 2005 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated December 6, 2003 was served on Derek Allan Boles, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 12, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for September 27, 2005.

Derek Allan Boles was in attendance at the hearing.

### **The Allegations**

The allegations against Derek Allan Boles in the *Notice of Hearing*, (*Exhibit 1*) dated December 6, 2003 are as follows:

**IT IS ALLEGED** that Derek Allan Boles, is guilty of professional misconduct as defined in section 30 (2) of the *Ontario College of Teachers Act, 1996* (the “Act”), and/or is incompetent as defined in section 30 (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 specifically section 264(1)(c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);

- (d) he committed acts which 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 judgment and/or a disregard for the welfare of 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.

### **Agreed Statement of Facts**

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:

1. Derek Allan Boles, (the “Member”), is a member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Register Status Information respecting the Member. (*ASF – Exhibit 2, Tab A*)
2. At all material times, the Member was employed by the [REDACTED] (“the Board”) as a teacher [REDACTED] (“the School”). The Member was, at certain material times, [REDACTED] at the School.
3. During or prior to the 2000/2001 academic year, the Member made inappropriate jokes and statements to staff, contrary to the Board's Ethnocultural Equity and Sexual Harassment Policies and Ontario Human Rights legislation. Although the Member did not intend to cause offence, his conduct contributed to a toxic work

and learning environment for some staff, who felt intimidated, threatened and or/hurt by the Member's statements.

4. The Member, by his comments and behaviour, failed to create and sustain a positive and supportive working environment, reflective of and promoting a racially, culturally, and gender diverse population.
5. In June 2001, following an investigation into the Member's conduct, the Member was assigned by the Board to a different school and was removed from his responsibilities as Department Head. The Member was reminded to conduct himself in accordance with the policies of the [■], the duties of a teacher as outlined in the *Education Act*, and the Standards of Practice as outlined by the *Ontario College of Teachers Act*. The Member was warned that any repeat of the behaviours identified in paragraph 3 above would result in additional disciplinary action, up to and including termination of his employment.
6. Since June 2001, the Member has not been the subject of any complaint about racist or inappropriate sexual statements, and no disciplinary action has been taken pursuant to paragraph 3 above.
7. The Member co-operated with the Ontario College of Teachers throughout the investigation relating to the conduct referred to in paragraph 3 above.
8. By this document, the Member Derek Allan Boles accepts that the matters referred to in paragraph 3 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), 1(18) and 1(19).
9. By this document, the Member states that:
  - (a) he understands fully the nature of the allegations that have been made against him;

- (b) he understands that by pleading guilty to the allegations he is waiving the right to require the College to prove the case against him and the right to have a hearing; and
  - (c) he states that this guilty plea was made voluntarily, unequivocally and with the benefit of independent legal counsel.
10. 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, the fact of the reprimand to be recorded on the Register of the College; and
  - (b) direct that the findings and Order of the Committee, including the Member's full name, be published in the official publication of the College, *Professionally Speaking/Pour parler profession*.
11. By this document the Member acknowledges his understanding that any agreement between the College and defence counsel with respect to penalty proposed does not bind the Discipline Committee.

### **Member's Plea**

By this document, the Member, Derek Allan Boles, accepts that the matters referred to in paragraphs 3 above constitute conduct which is unprofessional and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(18) and 1(19).

At the hearing, the College withdrew the allegations of professional misconduct being more particularly breaches of Ontario Regulation 437/97 subsections 1(7), 1(14) and 1(15). The College also withdrew the allegations of incompetence as defined in section 30 (3) of the Act, in that he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of 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.

### **Joint Submission as to Finding**

In light of the above facts and circumstances to which the Member has pleaded guilty, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437, subsections 1(5), 1(18) and 1(19).

### **Decision as to Finding**

Having examined the Exhibits filed, and based on the guilty plea in 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 Derek Allan Boles committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(18) and 1(19).

### **Joint Submission as to Penalty**

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, the fact of the reprimand to be recorded on the Register of the College; and
- (b) direct that the findings and Order of the Committee, including the Member's full name, be published in the official publication of the College, *Professionally Speaking/Pour parler profession*.

### **Penalty Decision**

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Member is required to appear before the Committee to be reprimanded and the fact of the reprimand is to be recorded on the Register of the College; and
2. The Committee directs that the findings and the order of the Committee, including the Member's full name, be published in the official publication of the College, *Professionally speaking/Pour parler profession*.

### **Reasons for Decision**

The Committee finds that the reprimand serves as a specific deterrent to the Member. The Committee also finds that the publication of the facts of this case in *Professionally*

*speaking/Pour parler profession* serves as a general deterrent to the profession and serves the public interest.

Date: September 27, 2005

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Nancy Hutcheson  
Chair, Discipline Panel

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Don Cattani  
Member, Discipline Panel

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Eileen Walker  
Member, Discipline Panel