

MEMORANDUM OF AGREEMENT

BETWEEN:

Ontario College of Teachers

-and -

Derek Robert Burke

WHEREAS Derek Robert Burke is a Member of the Ontario College of Teachers (Registry number 196144);

AND WHEREAS on January 29, 2007, Brian P. McGowan, Registrar and Chief Executive Officer, initiated a complaint, with respect to the conduct or actions of Derek Robert Burke;

THE PARTIES to this agreement are the Ontario College of Teachers (the "College") and Derek Robert Burke (the "Member"). The Registrar's signature on this Memorandum of Agreement (the "MOA") does not bind the Investigation Committee in its function to consider and dispose of this matter.

WHERE THE INVESTIGATION COMMITTEE requests modifications to this MOA, the Dispute Resolution Administrator shall consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, the revised MOA shall become final and binding once ratified by the Investigation Committee.

WHERE THE INVESTIGATION COMMITTEE does not ratify the MOA or the parties do not accept the modifications, the complaint will proceed through the investigation process and will be considered by a differently constituted panel of the Investigation Committee. The second panel of the Investigation Committee will not be provided with nor will it consider this MOA.

Agreed Statement of Facts

The parties hereby agree to the truth and accuracy of the facts that are hereinafter expressed and agree to the receipt of this document by the Investigation Committee.

1. At all material times, the Member was employed by the Near North District School Board (the "Board") as a teacher at [REDACTED] (the "School").
2. At all material times, [REDACTED] was a young male over 14 years of age and under 18 years of age.
3. Between May 30, 2006 and June 8, 2006, the Member, by means of a computer

system, communicated with [REDACTED] for the purpose of facilitating the commission of the criminal offence of sexual exploitation.

4. On December 6, 2006, the Member pleaded guilty to the criminal charge of communication with a person over 14 years of age and under 18 years of age, by means of a computer system, for the purpose of facilitating the commission of the criminal offence of sexual exploitation.
5. On February 19, 2007, the Board terminated the Member's employment.
6. On March 22, 2007, in respect of the criminal proceeding, the Member was sentenced to a term of three months to be served at his home under supervision, followed by three years probation.
7. The Member voluntarily admits the above particulars and understands that by doing so, he is waiving the right to require the College to prove the allegations against him and the right to a contested hearing.

Joint Submission on Resolution

The parties agree to resolve the complaint as follows:

8. the parties agree and undertake that upon ratification of this MOA, there shall be no further action taken, no appeal of any or all of the terms of this agreement, and no application for judicial review, providing the terms of this MOA are adhered to;
9. the parties agree and understand that if any phrase or paragraph of this MOA is deemed null and void, the MOA shall be read as though the phrase or paragraph was stricken from the MOA and the amended MOA shall remain in force and effect;
10. the Member agrees and undertakes that upon ratification of this MOA, he shall immediately resign his membership in the College, pursuant to subsection 14(2) of the Ontario *College of Teachers Act*, 1996;
11. the Member agrees and understands that upon ratification of this MOA, the Registrar shall cancel his certificate of qualification and registration, pursuant to subsection 14(3) of the Ontario *College of Teachers Act*, 1996;
12. the Member agrees and understands that upon ratification of this MOA, he shall immediately surrender his certificate of qualification and registration to the Registrar;
13. the Member agrees and undertakes that upon ratification of this MOA, he shall not, at any time in the future, apply to the College for a certificate of qualification and registration;
14. the Member agrees and understands that upon ratification of this MOA, the public

register maintained by the Registrar, in accordance with section 23 of the Ontario *College of Teachers Act*, 1996, shall include the following notation:

On (Insert date of ratification by Investigation Committee), the Member resigned his membership in the Ontario College of Teachers and the Registrar cancelled his certificate of qualification and registration as a result of the Member's criminal conviction for communicating with a person between 14 years of age and 18 years of age, by means of a computer system, for the purpose of facilitating the commission of the criminal offence of sexual exploitation;

15. the Member agrees and understands that the College shall publish his name with a summary of the complaint and its resolution as contained in this MOA. Such publication shall be made in the College's official publication, *Professionally Speaking /Pour parler profession*, on the College web site, and in such other manner as the Registrar and Chief Executive Officer deems appropriate;
16. the Member agrees and understands that upon ratification of this MOA, the College shall maintain a copy of the Decision of the Investigation Committee, including this MOA, in the College's Margaret Wilson Library. The Decision will be available for review by the public;
17. the Member agrees and understands that upon ratification of this MOA, the College shall provide notice of the cancellation of the Member's certificate of qualification and registration to those organizations routinely notified by the College of action, including but not limited to school boards, teacher federations or affiliates, and teacher licensing and governing bodies in Canada and elsewhere;
18. the Member agrees and understands that this MOA is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this MOA;
19. the Member agrees and understands that should he breach this MOA by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this MOA to any employer, licensing body, or education authority who inquires about the Member's record with the College;
20. the Member agrees and understands that, in the event he breaches a term of this MOA, the College may conduct an investigation or hearing into this matter as permitted under the *Ontario College of Teachers Act*, 1996;
21. the Member agrees and understands that, in the event he breaches a term of this MOA, he is estopped from alleging, by way of defense, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date on which the College became

aware of such a breach; and

- 22. the Member agrees and understands that, in the event he breaches a term of this MOA, the College may provide the Investigation, Executive, Discipline, or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate.

Dated at NORTH BAY this 5 day of APRIL 2007
Town/City Day of Mo. Month

Yvonne Burke
 Witness
Yvonne Burke
 Name of Witness - Please Print

Derek Robert Burke
 Derek Robert Burke

Dated at Toronto this 24 day of April 2007
Town/City Day of Mo. Month

n. carpenter
 Witness
Nadine Carpenter
 Name of Witness - Please Print

Brian P. McGowan
 Brian P. McGowan
 Registrar and Chief Executive Officer