

**DECISION OF THE INVESTIGATION COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS
IN THE MATTER OF**

**A COMPLAINT SUBMITTED BY THE REGISTRAR
REGARDING DEREK ROBERT BURKE**

PANEL: Brian Doubleday, Heather Nagy, Anne Marie Levesque

(Paul Brazeau, Chair of the Investigation Committee, declared a conflict of interest and recused himself from consideration of this matter in all respects.)

IMPORTANT NOTICE

The Investigation Committee has disposed of this matter without a full investigation. The information contained within the following summary has been provided by the Complainant(s) and does not contain any input from the Member, Derek Robert Burke. Unless otherwise stated in its Decision, no determination has been made by the Investigation Committee in respect to the veracity, or otherwise, of the allegations and information provided by the Complainant(s).

On June 29, 2006, the Ontario College of Teachers (the "College") received notification from the Near North District School Board regarding its employee, Derek Robert Burke, in accordance with section 43.3(1)(c) of the *Ontario College of Teachers Act, 1996*.

Derek Robert Burke (the "Member") is a member of the College in good standing.

It is alleged that on or between May 30, 2006 and June 8, 2006, the Member, being in a position of trust or authority towards [REDACTED], a young person, did for a sexual purpose invite [REDACTED] to touch the Member with his hand, contrary to Section 153(b) of the *Criminal Code (Canada)*. Further, it is alleged that on or between May 30, 2006 and June 8, 2006, the Member did by means of a computer system within the meaning of subsection 342.1(2) communicate with [REDACTED], a person who is under the age of eighteen years for the purpose of facilitating the commission of the offence of sexual exploitation contrary to Section 172.1(1)(a) of the *Criminal Code (Canada)*.

During the course of investigating the above complaint against the Member, the College received additional information from various witnesses.

Information provided by witnesses detailed that the Member participated in the following activities with students and former students:

- Swimming naked;
- Convincing male students who played on the school's [REDACTED] team, coached by the Member, to dye their hair blond so that it would match the colour and style of the Member's dyed hair;
- Taking [REDACTED], a male student, on an overnight trip to Toronto to attend a Raptors basketball game;
- Communicating regularly with students on the Internet through either ICQ, MSN or e-mail;
- Giving students his home telephone number;
- Being overly familiar with students by allowing them to call him "Burke";
- Exchanging clothing with [REDACTED], a male student;
- Having sleepover parties with male students at his home, where the following took place:
 - Wrestling with students;
 - Discussions involving K.Y. jelly;
 - Watching movies behind locked doors so the Member's wife could not enter the room;
- Attending student birthday parties;
- Watching movies in a student's bedroom while laying on the bed with students;
- Taking students "joy-riding" in his personal vehicle late at night;
- Permitting and/or encouraging and/or participating in the following behaviour with his student passengers:
 - Throwing eggs at other vehicles;
 - Harassing pedestrians;
 - Urinating from a bridge onto cars passing on the roadway beneath the bridge;
 - Exposing their buttocks;
 - Disrobing and running naked down a roadway;
 - Climbing onto a building's roof;
 - Encouraging students to jump to the ground from a building's roof;
 - Riding on the roof of a vehicle while it was moving;
 - Smashing shopping carts into one another in a grocery store parking lot;
- Giving gifts to a select group of male students;
- Advising male students in a group that were to be chaperoned by the Member on a graduation trip to Toronto, that the group would be sitting around the Member's hotel room, watching movies late into night, clad only in their boxer shorts.

In December 2006, the Member pleaded guilty to luring a minor via the Internet. On March 22, 2007, the Member was sentenced to three months custody, to be served under strict house arrest with few exceptions, followed by three years probation.

On February 21, 2007, the complaint against the Member was assessed as suitable for the College's Dispute Resolution Program and both the parties indicated that they were amenable to participating in dispute resolution.

In April 2007, the parties signed a Memorandum of Agreement, which, in their opinion, resolved the issues raised by the complaint.

Allegations

- A. The Registrar alleges that Derek Robert Burke (the "Member"), a teacher with the Near North District School Board at [REDACTED] Ontario, acted inappropriately, and/or unprofessionally, in that:
1. on or between May 30, 2006 and June 8, 2006, being in a position of trust or authority towards [REDACTED], a young person over 14 and under 18-years old, invited [REDACTED] to touch him with his hand for a sexual purpose;
 2. on or between May 30, 2006 and June 8, 2006, by means of a computer system, communicated with [REDACTED] for the purpose of facilitating the commission of the criminal offence of sexual exploitation; and,
 3. in so doing, contravened laws relevant to the Member's suitability to hold a certificate of qualification and registration, and which have caused or may cause a student who is under the Member's professional supervision to be put at or to remain at risk.
- B. The Registrar further alleges that the Member participated in the following inappropriate and unprofessional activities with students and former students:
4. swimming naked;
 5. convincing male students who played on the school's [REDACTED] team, coached by the Member, to dye their hair blond so that it would match the colour and style of the Member's dyed hair;
 6. taking [REDACTED], a male student, on an overnight trip to Toronto to attend a Raptors basketball game;
 7. communicating regularly with students on the Internet through either ICQ, MSN or e-mail;
 8. giving students his home telephone number;
 9. permitting students to call him "Burke";
 10. exchanging clothing with [REDACTED], a male student;
 11. having sleepover parties at his residence with male students, where the following activities took place:
 - a. wrestling with students;
 - b. discussions involving K. Y. jelly;
 - c. watching movies behind locked doors so the Member's wife could not enter the room.
 12. attending student birthday parties;

13. watching movies in a student's bedroom while laying on a bed with students;
14. taking students "joy-riding" in his personal vehicle late at night;
15. permitting and/or encouraging and/or participating in the following behaviour with his student passengers:
 - a. throwing eggs at other vehicles;
 - b. verbally harassing pedestrians;
 - c. urinating from a bridge onto cars passing on the roadway beneath the bridge;
 - d. exposing their buttocks;
 - e. disrobing and running naked down a roadway;
 - f. climbing onto the roof of a building;
 - g. encouraging students to jump to the ground from the roof of a building;
 - h. riding on the roof of a vehicle while it was moving;
 - i. smashing shopping carts into one another in a grocery store parking lot.
16. giving gifts to select male students; and,
17. advising male students in a group that were to be chaperoned by the Member on a graduation trip to Toronto, that the group would be sitting around the Member's hotel room, watching movies late into night, clad only in their boxer shorts.

C. The Registrar further alleges that the Member acted inappropriately and unprofessionally when he used his classroom computer to access and download inappropriate images from Internet websites.

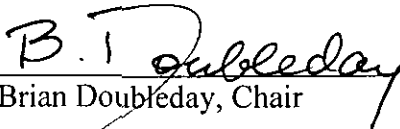
Documents Considered by the Committee

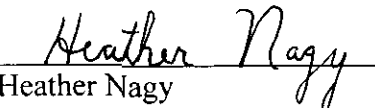
- Request for Ratification
- Board's notification letter, dated June 19, 2006
- Memo - Registrar initiating complaint
- Request to Initiate Investigation, dated September 15, 2006
- Letter of Notification to Member, dated September 7, 2006
- Memo - Registrar initiating new complaint
- Request to Initiate Investigation, dated January 29, 2007
- Letter of Notification of new complaint to Member, dated February 2, 2007
- Facsimile from Member's counsel, dated October 13, 2006
- Letter to Member's counsel requesting Agreement and Undertaking, dated December 14, 2006
- Facsimile from Member's counsel enclosing signed Agreement and Undertaking, dated December 21, 2006
- Handwritten notes of [REDACTED] from Member's personnel file
- Various documents from Member's personnel file
- E-mail from Director to Investigator, dated February 5, 2007
- Letter from Director to Registrar advising of Board's decision to terminate the Member, dated February 20, 2007

- Copy of letter from Director to Member advising of Board's decision to terminate the Member, dated February 20, 2007
- Letter to North Bay Police Service FOI Officer, dated August 30, 2006
- Letter from North Bay Police Service FOI Officer, dated September 18, 2006 with enclosure - Crown Brief Synopsis
- Certified Court Information
- E-mail correspondence from [REDACTED] dated December 7, 2006
- Memo of telephone conversation with [REDACTED] dated December 14, 2006
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Interview notes of [REDACTED] dated January 9, 2007
- Telephone interview of [REDACTED] dated January 10, 2007
- Interview notes of [REDACTED] January 10, 2007
- Interview Notes of [REDACTED] January 10, 2007
- DVD of home movie showing Member in attendance at a student's birthday party and driving students in his personal vehicle
- Various media releases surrounding Member
- Memorandum of Agreement signed by the parties

Decision of the Committee

On April 26, 2007, a panel of the Investigation Committee considered this complaint and, in accordance with the provisions of 26(5)(d) of the *Ontario College of Teachers Act, 1996*, the Investigation Committee ratified the attached Memorandum of Agreement. This is based on the opinion of the Committee that the terms of this Agreement resolve the complaint in the public interest.


 Brian Doubleday, Chair


 Heather Nagy


 Anne Marie Levesque