

**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 Anthony Cardamone, a member of the Ontario College of Teachers.

PANEL: Hanno Weinberger, Chair
Mel Greif
Darlene Mead

BETWEEN:	)	Awanish Sinha,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
	)	Stephanie Carey,
	)	Markle & Phibbs,
ANTHONY CARDAMONE	)	for Anthony Cardamone
(CERTIFICATE #181642))	
)	
	)	Bonni Ellis,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: August 20, 2009

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on August 20, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated August 19, 2008 was served on Anthony Cardamone, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on September 17, 2008 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for August 20, 2009.

Anthony Cardamone was in attendance.

THE ALLEGATIONS

The allegations against Anthony Cardamone in the *Notice of Hearing*, (*Exhibit 1*) dated August 19, 2008, are as follows:

IT IS ALLEGED that Anthony Cardamone is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (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* or 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 contravened a law, the contravention of which is relevant to the Member’s suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) he contravened a law, the contravention of which has caused students under the Member’s professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (f) he 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
- (g) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on August 20, 2009, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (a), (b), (c), (d), (e) and (f) above, namely that the Member breached Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(17) 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 an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*, which provides as follows:

AGREED STATEMENT OF FACTS

1. Anthony Cardamone (the “Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. At all material times, the Member was employed by the Dufferin Peel Catholic District School Board (the “Board”) as an elementary teacher at St. Ursula Elementary School in Brampton (the “School”).
3. The School has a “hands off” or “no touch” policy of which the Member was aware.
4. On or about 9 May 2007, after learning that two male students, A and B, had been fighting during recess, the Member:
 - (a) after they had returned to the classroom, and in an effort to discuss bullying, asked the students to demonstrate what they had been doing, and told them to continue fighting;
 - (b) when the students did not continue the fight, placed both his hands on the shoulders of Student A, and made punching motions in the air; and

- (c) sent the two students into a back room and then sat down inside the room with them, at which time the Member apologized as he said that he thought he might perhaps have embarrassed Student A in front of everyone;
5. On or about 16 December 2008, a charge which had been brought against the Member for unlawfully assaulting Student A, was dismissed by the Ontario Court of Justice.

PLEA OF NO CONTEST

6. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and Exhibits referred to in paragraphs 1 to 5 above (the “Admitted Facts”). The Member hereby acknowledges that the facts referred to in paragraph 4(a) and 4(b) above, constitute professional misconduct and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(19).
7. By this document, the Member states that:
- (a) he understands fully the nature of the allegations against him;
 - (b) he understands that by signing this document, he is consenting to the evidence and Exhibits as set out in paragraphs 1 to 5 above, being presented to the Discipline Committee at the hearing of this matter;

- (c) he understands that by pleading no contest to the allegations, he is waiving the right to require the College to prove the case against him and the right to have a full hearing on these issues; and
 - (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.
8. The Member provides this plea of no contest pursuant to rule 3.02 of the *Rules of Procedure* of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, Ch. E23 for the purpose of this proceeding under the *College of Teachers Act, 1996*, Chapter 12 and for no other purpose. The Member's plea of no contest does not constitute an admission by the Member as to the facts or findings in any other civil, criminal or administrative proceedings.
9. In light of the uncontested facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

10. 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) directs that the Member appear before the Committee immediately following the hearing of this matter to be counselled, and the fact of the counselling is to be recorded on the Register of the Ontario College of Teachers;

- (b) directs the Registrar to impose a term or condition on the Member's certificate that the Member is to enrol in and complete, at his own expense, within six (6) months from the date of an Order of the Discipline Committee, a course of instruction, pre-approved by the Registrar, regarding disciplinary techniques involving intermediate students, and that the Member shall deliver directly to the Registrar, within thirty (30) days of its completion, a written certificate from the course provider stating:
 - (i) that he or she has reviewed a copy of the Agreed Statement of Facts which is made an exhibit at the hearing of this matter and the Decision and Reasons of the Discipline Committee; and
 - (ii) that the Member has successfully completed the course; and
- (c) directs that there be publication of the findings and Order of the Committee in summary form, without the name of the Member, 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 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 no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel for the College and counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular,

the Committee finds that Anthony Cardamone committed acts of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 1(19) as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 5 (the “admitted facts”) of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). He acknowledged that the admitted facts referred to in paragraphs 4(a) and 4(b) of Exhibit 2 constitute professional misconduct and pleaded no contest to the allegations of professional misconduct. The Committee accepted the Member’s plea of no contest and the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

In May 2007, the Member placed his hands on the shoulders of a student in his care, contrary to board policy. The Committee recognizes that the intent was educative. However, touching a student in the manner indicated above is inappropriate behaviour and conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

- (a) the Member is required to appear before the Committee to be counselled and the fact of the counselling is to be recorded on the public register of the Ontario College of Teachers;
- (b) the Registrar of the Ontario College of Teachers is directed to impose the following term or condition on the Member's Certificate of Qualification and Registration that the Member is to enrol in and complete, at his own expense, within six (6) months from August 20, 2009, a course of instruction, pre-approved by the Registrar, regarding disciplinary techniques involving intermediate students, and that the Member shall deliver directly to the Registrar, within thirty (30) days of its completion, a written certificate from the course provider stating:
 - (i) that he or she has reviewed a copy of the Agreed Statement of Facts which is made an exhibit at the hearing of this matter and the Decision and Reasons of the Discipline Committee; and
 - (ii) that the Member has successfully completed the course; and
- (c) Pursuant to Section 30 (5) (3) of the Ontario College of Teachers Act, the findings and order of the Committee shall be published in summary, without the name of the Member in the official publication of the College, Professionally Speaking/Pour parler profession.

REASONS FOR PENALTY DECISION

The Committee determined that the counselling and the course work will provide an educative component and act as a specific deterrent to the Member. Publication of the findings in summary will serve as a general deterrent to the profession.

The Committee agreed that the behaviour of the Member was an error in judgment. Given the minor nature of this misconduct, the Committee felt there was no need for publication of the Member's name.

The Committee concludes that the decision is in the public interest.

Date: August 20, 2009

Hanno Weinberger
Chair, Discipline Panel

Mel Greif
Member, Discipline Panel

Darlene Mead
Member, Discipline Panel