

**DISCIPLINE COMMITTEE  
ONTARIO COLLEGE OF TEACHERS**

**IN THE MATTER OF** the *Ontario College of Teachers Act* (the “Act”) and Ontario Regulation 437/97

**AND IN THE MATTER OF** the disciplinary proceedings against Véronique Isabelle Judith Pénélope Charbonneau, OCT, member of the Ontario College of Teachers

PANEL:        Dean Favero, OCT, Chair  
                 Anne Marie Levesque  
                 Jacques Tremblay, OCT

BETWEEN:	)	
	)	Colin Baxter and Calina Ritchie,
	)	Cavanagh, Williams, Conway, Baxter, LLP,
ONTARIO COLLEGE	)	representing the Ontario College of Teachers
OF TEACHERS	)	
	)	
	)	
	)	
- and -	)	
	)	
VÉRONIQUE ISABELLE JUDITH	)	Julie Skinner and Christine Poirier
PÉNÉLOPPE CHARBONNEAU	)	Nelligan O’Brien Payne, LLP,
(REGISTRATION NUMBER 480760)	)	representing Véronique Isabelle Judith
	)	Pénélope Charbonneau
	)	
	)	
	)	Paul Marshall,
	)	Emond Harnden, LLP,
	)	Independent Counsel
	)	
	)	Date of hearing: November 2, 2009

**DECISION AND ORDER**

A disciplinary panel of the Ontario College of Teachers (the “College”) held a hearing on this matter in Toronto on November 2, 2009.

A Notice of Hearing dated September 19, 2008 was served on Véronique Isabelle Judith Pénélope Charbonneau. It asked her to appear before the College's Discipline Committee on October 1, 2008 to set a date for the hearing. That date was set for November 2, 2009.

The member did not attend the hearing, but was represented by legal counsel.

## **ALLEGATIONS**

The allegations made against Pénélope Charbonneau in the Notice of Hearing dated September 19, 2008 (Exhibit 1) are as follows:

**IT IS ALLEGED** that Pénélope Charbonneau is guilty of professional misconduct as defined in subsection 30 (2) of the Act in that she:

- a) failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97
- b) abused one or more students physically, sexually, verbally, psychologically or emotionally, contrary to subsection 1(7) of Ontario Regulation 437/97
- c) failed to comply with the Act or the *Education Act*, R.S.O. 1990, c. E.2, contrary to subsections 1(14) and (15) of Ontario Regulation 437/97
- d) committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to subsection 1(18) of Ontario Regulation 437/97

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

At the hearing on November 2, 2009, counsel for the College withdrew a number of allegations of professional misconduct, in particular the allegations of contravening subsections 1(7), 1(14), 1(15) and 1(19) of Ontario Regulation 437/97, which are stated in paragraphs b), c) and e) above.

The Notice of Hearing attached hereto reflects the changes made to the allegations.

### **AGREED STATEMENT OF FACTS**

Counsel for the College informed the [Committee's] panel that an agreement on the facts had been reached, and submitted the agreed statement of facts, the guilty plea and the joint submission on penalty (Exhibit 2), which set out the following:

1. Véronique Pénélope Charbonneau is a member in good standing of the College (Registration number 480760).
2. At all material times, that is, during the 2006-2007 school year, the member was working as a teacher at [XXX] within the Conseil des écoles catholiques du Centre-Est.
3. During the 2006-2007 school year, A was a [XXX] male student in the member's [XXX] class at [XXX].
4. During September and October 2006, the member acted inappropriately and unprofessionally in that she:
  - a) instructed a [XXX] male student, A, to lay his hands on his thighs and, as a joke, placed masking tape from one side of the seat to the other, over his legs and hands, thereby fastening him to his chair;

- b) humiliated A in class by calling him “pig-headed.”

### **MEMBER’S GUILTY PLEA**

- 5. The member acknowledges that she is guilty of professional misconduct as defined in subsection 30(2) of the Act in that she:
  - a) failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97;
  - b) committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to subsection 1(18) of Ontario Regulation 437/97.
- 6. In light of the aforementioned facts and the guilty plea, the College and the member ask that the Discipline Committee find the member guilty of professional misconduct in that she carried out the actions described above.
- 7. The member admits that she carried out the aforementioned actions and understands that in admitting to them, she is waiving the right to require the College to prove the case against her and the right to a contested hearing.

### **JOINT SUBMISSION ON PENALTY**

- 8. The College and the member submit that the Discipline Committee should impose the following penalty:
  - a) The Discipline Committee directs that the member appear before it following the hearing into this matter to receive a verbal reprimand and that this fact be published on the Public Register of Members. The College takes no position concerning the

member's appearance in person or by telephone. The member will make representations through her counsel in support of her position that exceptional circumstances argue in favour of her appearance by telephone and that this procedure would satisfy the objectives of a verbal reprimand. The Discipline Committee shall issue an order in this regard.

- b) The Discipline Committee directs that within twelve (12) months of the date of this order, the member, at her expense, shall enrol in Module 1 of "Connaître les barrières, Respecter les limites," a course delivered by Donat Boulerice and pre-approved by the Registrar. Within thirty (30) days of completion of the course, the member shall provide the Registrar directly with proof of her successful completion of the course.
  - c) The Discipline Committee directs that its decision and order, in summary form, shall be published in the College's official publication, *Professionally Speaking*.
9. By this document, the member acknowledges that any agreement between the College and the member with respect to the penalty is not binding on the Discipline Committee.

### **SUBMISSIONS ON REPRIMAND**

The Committee heard submissions concerning the member's appearance in person or by telephone to receive the reprimand.

Counsel for the College took no position concerning the member's appearance in person or by telephone.

Counsel for the member indicated that there were exceptional circumstances in support of the submission that the member not appear in person at the hearing and for the reprimand. The exceptional circumstances noted were as follows: the member is a single parent with a newborn child as well as other children; the member would have to travel the long distance between Ottawa and Toronto to appear before the Committee for a few minutes. Counsel for the member also pointed out that the member will hear the reprimand, that she understands her wrongdoing and that this is part of the penalty.

### **SUBMISSIONS ON PUBLICATION**

The Committee heard submissions concerning the non-publication of the decision and order in *Professionally Speaking*.

Counsel for the College took no position concerning the non-publication of the decision and order.

Counsel for the member indicated that the context of the events should be taken into account: the fact that it was an isolated case, that over three years had passed, that there was no history of misconduct, that the case was of a minor nature, that the member worked with the principal to improve her conduct, and that the member has learned she must be careful not to make inappropriate jokes. Moreover, the agreement with the College was considered and approved in principle.

In view of the transparency underlined by the Committee, counsel for the member said that she respected the Committee's concerns and would abide by their decision. Counsel for the member

added that in the event the Committee decided to publish the summary without the member's name, the summary should neither include the name of the school or the school board or any other details that could identify the member.

## **DECISION**

Having considered the evidence and based on the agreed statement of facts, the guilty plea, the joint submission on penalty and the lawyers' observations, the Committee supports a finding of professional misconduct and finds Véronique Isabelle Judith Pénélope Charbonneau guilty of professional misconduct for failing to comply with subsections 1(5) and 1(18) of Ontario Regulation 437/97, as indicated in the Notice of Hearing.

## **DECISION AND ORDER**

The Committee accepted the member's guilty plea pursuant to subsections 1(5) and 1(18) of Ontario Regulation 437/97.

Fastening a [XXX] child to a chair and using humiliating language toward a young child constitute a failure to maintain the standards of the profession, and these actions can reasonably be regarded as disgraceful, dishonourable or unprofessional. Members of the College must ensure that the children in their care feel valued and respected at all times. In this case, the member failed in her duty to create an environment that fosters the development of the child.

## **DECISION ON PENALTY**

The Committee makes the following order with respect to the penalty:

1. The Committee directs Pénélope Charbonneau to appear in person before the Committee within twelve (12) months of the hearing into this matter so that it can administer a verbal reprimand, and that this fact be published on the Public Register.

2. The Committee directs the Registrar to impose the following conditions or limitations on the member's certificate of qualification and registration:
  - a) Within twelve (12) months of the date of this order, the member, at her expense, shall enrol in Module 1 of "Connaître les barrières, Respecter les limites," a course delivered by Donat Boulerice and pre-approved by the Registrar. Within thirty (30) days of completion of the course, the member shall provide the Registrar directly with proof of her successful completion of the course.
  - b) The Committee's decision and order shall be published in the College's official publication, *Professionally Speaking*, in summary form, without the member's name or any other details that could identify the member.

#### **REASONS FOR DECISION ON PENALTY**

The Committee is of the opinion that a reprimand administered in person is of greater value than a reprimand issued from a distance. The Committee has taken into account the College's current practices and the circumstances described by counsel for the member. Accordingly, the Committee is allowing a period of twelve (12) months for the member to come to the College to receive her reprimand, which will have deterrent and educational value.

Having reviewed the agreement, the Committee concurs that the member will benefit from Module 1 of "Connaître les barrières, Respecter les limites." This course will have remedial value for the member.

On the matter of publication, the Committee acknowledges the importance of transparency in decisions and public communication. In this case, the summary of this decision will be published

so that members of the profession and the public will be informed that such practices are unacceptable. As regards publication of the member's name, the Committee accepts her lawyer's submissions and finds that the public interest is protected without identifying the member.

The Committee is confident that the penalty is appropriate in the circumstances and that it serves and protects the public interest.

Date: November 2, 2009

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Dean Favero, OCT  
Chair, Discipline Panel

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Anne Marie Levesque  
Member, Discipline Panel

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Jacques Tremblay, OCT  
Member, Discipline Panel