

**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 Debbie Lynn Chenier, a member of the Ontario College of Teachers.

PANEL:            Robert Ryan, OCT, Chair  
                       Robert Gagné  
                       Jacques Tremblay, OCT

BETWEEN:	)	Eli Mogil,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -	)	
	)	
	)	
DEBBIE LYNN CHENIER	)	Debbie Lynn Chenier was not
(CERTIFICATE # 189082)	)	present, nor was she represented
	)	
	)	Richard Steinecke,
	)	Steinecke Maciura LeBlanc
	)	Independent Legal Counsel
	)	
	)	Heard: April 19, 2011
	)	

**REASONS FOR DECISION, DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on April 19, 2011 at the Ontario College of Teachers (“the College”) at Toronto.

A Notice of Hearing dated November 25, 2010, filed as Exhibit 1, was served on Debbie Lynn Chenier (the “Member”), providing her with notice that the Discipline Committee of the Ontario College of Teachers would meet on January 17, 2011 to set a date for a hearing, and specifying the charges. The Member did not attend on January 17, 2011. The Discipline Committee set April 19, 2011 as the date for the hearing on the merits.

The Member did not appear, nor was she represented by counsel.

Counsel for the College submitted an Affidavit of Jennifer Joyanne Robinson, Law Clerk at McCarthy Tétrault, sworn April 18, 2011 (Exhibit 3) outlining written and oral communications with the Member with respect to the date of the hearing and her ability to make submissions and participate in the hearing. The Committee was satisfied that the Member was properly served with the *Notice of Hearing* and all disclosure documents and was actually and personally aware of the time and date of the hearing.

The hearing was scheduled for 9:00 a.m. on April 19, 2011. The Committee waited until 9:15 a.m. to begin the hearing but Debbie Lynn Chenier did not appear. The Committee proceeded in the Member’s absence after satisfying itself that the Member was aware that a complaint had been filed against her and that allegations flowing from that complaint would proceed to a hearing on April 19, 2011 (Affidavit of Jennifer Joyanne Robinson, Law Clerk with McCarthy Tétrault, Solicitors for the Ontario College of Teachers, Exhibit 3).

## **THE ALLEGATIONS**

**IT IS ALLEGED** that Debbie Lynn Chenier 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) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsections 1(15); and
- (c) she displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of her students of a nature or extent that demonstrates that the Member is either unfit to carry out her professional responsibilities or that the Member’s certificate should be made subject to terms, conditions or limitations.

## **PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Debbie Lynn Chenier (the “Member”) is a member of the Ontario College of Teachers, whose status is ‘Suspended – Non-payment of fees’.
2. At all material times, the Member was an employee of the Durham District School Board (the “Board”) and was a Grade 4 teacher at Dr. S. J. Phillips Public School in Oshawa, Ontario.

3. The Member's performance as a teacher was assessed on December 18, 2008 and April 24, 2009. On each occasion, the Member received an unsatisfactory or 'Below Standard' rating in each of the areas of assessment, namely her Commitment to Pupils and Pupil Learning, Teaching Practice, Leadership and Ongoing Professional Learning. The Member, *inter alia*:

- (a) had not developed a positive teaching and learning environment in her classroom;
- (b) failed to demonstrate mastery of her subject knowledge and related skills;
- (c) had difficulty gaining the attention of her students;
- (d) yelled at students, turned off lights, and directed her students to put their heads down in an attempt to regain control, which conduct resulted in complaints from both students and parents;
- (e) required improvement in her classroom management so that her communication with parents could focus on student improvement rather than behavioural problems in the classroom;
- (f) failed to provide sufficient structure to her tasks;
- (g) failed to conduct effective and meaningful assessment of student work;
- (h) failed to apply suggestions and observations of colleagues' classrooms to provide appropriate structure and routine in her own;
- (i) failed to establish an environment that maximized student learning;
- (j) failed to engender respect, both between students and for their teacher.

4. Following her receipt of a second 'Below Standard' rating on April 24, 2009, which noted little or no improvement in all the areas which had been identified as

needing attention in the December 2008 assessment, the Member was advised of her placement on Review Status.

5. An Improvement Plan dated May 8, 2009, notified the Member that her performance would again be appraised on November 20, 2009.

6. The Member resigned from her employment with the Board, effective January 1, 2010.

### **MEMBER'S PLEA**

As the Member was not present, the Committee proceeded on the basis that the Member denied the allegations set out in the Notice of Hearing. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

### **THE EVIDENCE**

The College called one witness, Barbara Hardy ("Hardy"), who was employed as a principal with the Durham District School Board.

#### *Evidence of Hardy*

Hardy was in her 30<sup>th</sup> year in education, had been a teacher, vice-principal and principal. She has been principal at Dr. S.J. Phillips Public School (the "School") for the past 7 years. A Brief of Documents (Exhibit 4) was tendered by the College. Hardy was able to identify all of the documents in the Brief.

Hardy testified that the Member had been transferred to the School in September 2008 to teach a Grade 4 class.

Hardy testified that during September and October 2008 the Member had a great deal of difficulty with classroom management, lesson planning, student safety and discipline. In an effort to provide support to the Member, Hardy put in place the following. A special education resource teacher was placed in the Member's classroom at times throughout the day. The Member was assigned a master grade 5 teacher as a mentor. Other teachers volunteered to look after specific students with issues. Hardy visited the Member's class twice per day to offer support and to model teaching techniques. As well, the principal had weekly meetings with the Member to review effective classroom management, planning, student safety and positive communication with parents.

Hardy indicated that as outlined in the Teacher Performance Appraisal Manual there were time-lines for appraisals. (Exhibit 4, Tab A). Hardy stated that she had gone over the appraisal time-lines with the Member, who knew she would be appraised. Hardy indicated that all teachers complete an Annual Learning Plan every year and that this begins the TPA process. Hardy indicated that she couldn't get the Member to complete this Plan until November 24, 2008 (Exhibit 4, Tab D).

Hardy completed two performance appraisals of the Member. In each case, Hardy followed all of the steps of the Teacher Performance Appraisal process, held a Pre and Post-Observation Meeting with the Member and prepared a thorough Summative Report, including an Improvement Plan.

Hardy testified that she conducted an appraisal of the Member's performance as a teacher in or about November 2008 and prepared a Summative Report of that appraisal dated December 18, 2008 (Exhibit 4, Tab F). The Member received an unsatisfactory or "Below Standard" rating in each of the areas of assessment, namely her Commitment to Pupils and Pupil Learning, Teaching Practice, Leadership and Ongoing Professional Learning.

Following the first performance appraisal of the Member, an Improvement Plan was put in place. (Exhibit 4, Tab H). The Plan dealt with competencies requiring improvement, expectations, steps and actions for improvement with time-lines and outlined the support to be provided and sample indicators of success. The Member signed the Improvement Plan, but did not provide any comments. Little or no improvement was seen in the following months.

Hardy conducted an appraisal of the Member's performance for a second time in or about March 2009 and prepared a Summative Report of that appraisal dated April 24, 2009 (Exhibit 4, Tab L). Again, the Member received an unsatisfactory or "Below Standard" rating in each of the areas of assessment, namely her Commitment to Pupils and Pupil Learning, Teaching Practice, Leadership and Ongoing Professional Learning. In both of these appraisals, in each of these areas of assessment, the Member, among other things:

- (a) had not developed a positive teaching and learning environment in her classroom;
- (b) failed to demonstrate mastery of her subject knowledge and related skills in her classroom;

- (c) had difficulty gaining the attention of her students;
- (d) had difficulty establishing positive, respectful relationships with students;
- (e) yelled at students, turned off lights, and directed her students to put their heads down in an attempt to regain control, which conduct resulted in complaints from both students and parents;
- (f) required improvement in her classroom management so that her communication with parents could focus on student improvement rather than behavioural problems in the classroom;
- (g) failed to provide sufficient structure to her tasks to ensure student safety and learning;
- (h) failed to apply suggestions and observations of colleagues' classrooms to provide appropriate structure and routine in her own;
- (i) failed to establish an environment that maximized student learning; and
- (j) failed to engender respect, both between students and for their teacher.

Following her receipt of a second 'Below Standard' rating on April 24, 2009, which noted little or no improvement in all the areas which had been identified as needing attention in the December 2008 assessment, the Member was advised of her placement on Review Status.

An Improvement Plan dated May 8, 2009, notified the Member that her performance would again be appraised on the following school year. However, according to Hardy, the Member did not return to the School in September 2009. The School had not been informed by the Member that she would not be returning to the School.

## **DECISION**

Having considered the evidence and onus and standard of proof, and the submissions made by Counsel for the College, the Committee finds that the Member is incompetent as defined in section 30(3) of the *Act*, in that she displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of her students of a nature or extent that the Member's certificate should be made subject to terms, conditions and limitations.

The Committee makes no finding of professional misconduct as alleged in the Notice of Hearing, more particularly breaches of Ontario Regulation 437/97, subsections 1(5) and 1(15) as no evidence was presented by Counsel for the College regarding these allegations.

## **REASONS FOR DECISION**

The evidence indicated clearly that the Member faced many challenges and failed to demonstrate her ability in the areas of classroom management, effective student discipline, proper instructional strategies and student safety.

The Committee is satisfied that the teacher appraisal process was followed appropriately, Improvement Plans were put in place, extensive supports were put in place to assist the Member but little or no progress was evident. The Committee is concerned by the Member's lack of improvement despite all of the supports put in place to assist her. Documents supported by the testimony of the principal confirm that the Member displayed a lack of knowledge, skill or judgment and lack of awareness for the safety of

the students in her care. The areas of deficiencies were serious and significant. The Member lacked effective classroom management techniques. For example, structured classroom tasks were not organized to ensure student engagement and to maximize student learning. The principal testified that students frequently interrupted each other and the Member by shouting out, leaving their seats and the classroom, throwing objects around the room, making paper airplanes, laughing and passing notes. The noise level was high and students frequently challenged or ignored the Member's direction. Routines to minimize classroom disruptions were not established. Students continued to come to class unprepared, without pencils, agendas, books and other required materials.

Documents supported by the testimony of the principal also confirm that the Member showed a lack of awareness for the safety of the students in her care. For example, students were injured by other students in the classroom, were kicking, pinching, punching each other, using rulers and markers in a sword fight. Students left the classroom without the Member's awareness. A boy and a girl were involved in a confrontation in the classroom, while under the direction of the Member which ended with the boy pulling down the pants of the girl in full view of other classmates. In another incident involving a confrontation outside the classroom door, a boy pushed a girl to the ground and kicked her in the face with his boot. The girl received a split lip and her jaw was swollen.

The principal observed that the Member did not display a mastery of subject knowledge and related skills in her classroom. Worksheets and blackboard work frequently

contained spelling, grammar and punctuation errors. Mathematical terms were often referred to inappropriately, such as mixing up the terms “axis” and “axes”.

After considering the documentary evidence, supported by the testimony of the principal and answers of clarification provided by the witness to inquiries by the Committee and the submissions of counsel, the Committee finds that the Member to be incompetent such that her certificate should be subject to terms, conditions and limitations.

### **ORDER**

The Committee accepts the submissions on College Counsel with respect to penalty.

The Committee makes the following order:

The Registrar of the Ontario College of Teachers is directed to impose the following terms, conditions or limitations on the Member’s Certificate of Qualification and Registration, the fact of such terms and conditions and limitations is to be recorded on the Register of the College until such time as they are fulfilled:

- (i) prior to any return to a teaching position for which a Certificate of Qualification and Registration is required, the Member shall attend at her own expense, the following courses, pre-approved by the Registrar:
  - A. an accredited Additional Qualifications course in English language which covers curriculum, lesson planning, instructional strategies and assessment of student learning;

- B. an accredited Additional Qualifications course in Mathematics which covers curriculum, lesson planning, instructional strategies and assessment of student learning;
- C. a course on classroom management and effective student discipline;
- (ii) within thirty (30) days of his completion of each of the courses referred to at paragraphs A, B and C above, the Member shall provide evidence to the Registrar in writing, of her successful completion of same;
- (iii) the Member shall advise the Registrar within ten (10) days following her return to any teaching duties of the date of such return, the name of her employer, and the nature of said employment;
- (iv) upon the commencement of her employment, the Member shall take all reasonable steps to cause her employer to conduct two (2) performance appraisals within eighteen (18) months;
- (v) the Member shall provide to the Registrar, within eighteen (18) months following the date of her return to any teaching duties, two (2) consecutive satisfactory teacher performance appraisals.

## **REASONS FOR ORDER**

The public interest is served by requiring that, prior to returning to a teaching position, the Member shall undertake remediation in teaching practice by completing two accredited Additional Qualification courses, one in English language and one in Mathematics, which covers curriculum, lesson planning, instructional strategies and assessment of student learning. In addition, the Member must complete a course on

classroom management and effective student discipline. This will assist the Member in acquiring the necessary skills to effectively resume teaching responsibilities.

Further, the Member is required to submit two consecutive satisfactory teacher performance appraisals to the Registrar within 18 months following her return to any teaching duties. This allows for ongoing monitoring of the Member's progress and aims to ensure that the Member is able to transfer theory to practice in an effective way.

Adherence to this order will remediate the Member should she wish to return to teaching and will allow her to display the competencies expected by the profession and the public.

Date: June 14, 2011

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Robert Ryan, OCT  
Chair, Discipline Panel

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Robert Gagné  
Member, Discipline Panel

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Jacques Tremblay, OCT  
Member, Discipline Panel