

**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 Andrew Stephen Corbett, a member of the Ontario College of Teachers.

PANEL: Brent Hamelin, Chair
 Tammy Bush
 John Tucker

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans
	)	Senior Law Clerk
- and -)	
	)	Andrew Stephen Corbett
ANDREW STEPHEN CORBETT	)	was not present or represented
(CERTIFICATE #442800)	)	by counsel
)	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: May 20, 2009

REASONS FOR DECISION, DECISION AND ORDERS

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

A *Notice of Hearing*, dated January 30, 2009 was served on Andrew Stephen Corbett, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 24, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for May 20, 2009.

The Member did not appear at the hearing, nor was he represented by counsel. The College tendered evidence confirming that the Member had been served with the *Notice of Hearing*, was aware of the allegations against him, and that the matter was proceeding on this date at 9:00 a.m. Further, the Member was aware of the gravity of the matters to be heard. The evidence included the “backsheet of the Notice of Hearing with acceptance of service on February 6, 2009” (Exhibit 2), and correspondence from the Member’s counsel dated May 19, 2009, (Exhibit 3), showing that the penalty and facts of the matter had been discussed with the Member. An e-mail dated May 20, 2009 between College Counsel and the Member’s Counsel confirmed that the Member was advised via telephone of the scheduled date of the hearing at the College (Exhibit 4).

The Committee was satisfied that there had been proper service of the *Notice of Hearing*, and the Member was aware of the time and date of the hearing, and of the gravity of the allegations and potential outcome. Given this evidence, the Committee commenced the hearing at 10:05 a.m. in the Member’s absence.

THE ALLEGATIONS

The allegations against Andrew Stephen Corbett in the *Notice of Hearing* (Exhibit 1) dated January 30, 2009, are as follows:

IT IS ALLEGED that Andrew Stephen Corbett is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) 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* and 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);
- (g) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (h) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. At all material times, the Member was employed by the Peel District School Board as an occasional teacher.

2. During the 2005-2006 academic year, and specifically during a six month period ending on or about 28 February 2006, the Member, while teaching at [XXX] School, engaged in inappropriate touching or sexual touching of Student No. 1, a male student, who was between [XXX] years old, during class.

3. During the 2005-2006 academic year, and specifically during a six month period ending on or about 28 February 2006, the Member, while teaching at [XXX] School (“[XXX]”), engaged in inappropriate and/or sexual touching of Student No. 2 and Student No. 3, who were [XXX] male students, during class, on two separate occasions. At that time those students were between [XXX] years of age. The touching by the Member included his:

- (a) rubbing the students’ backs; and/or
- (b) hugging one or more of the students; and/or
- (c) rubbing the thighs of one or more of the students.

4. During the 2005-2006 academic year, and specifically during a six month period ending on or about 28 February 2006, the Member, while teaching at [XXX], engaged in inappropriate and/or sexual touching of Student No. 4, Student No. 5 and Student No. 6, who were male students of the school. At that time, those students were between [XXX] years of age.

5. On or about 24 February 2006, the Member was removed from the Occasional Teacher’s List of the Board.

6. On or about 27 November 2008, the Member pleaded guilty to a charge that he, during a six month period, last, past and ending on or about the 28th day of February 2006, at the City of Mississauga, did unlawfully commit a sexual assault on Student No. 6, contrary to Section 271 of the *Criminal Code* (Canada).

7. On 27 November 2008, the Member was given a suspended sentence for a period of 15 months on mandatory statutory terms and was placed on probation. He was also ordered to [XXX] and to [XXX].

MEMBER'S PLEA

As the Member was not present, nor represented by Counsel, 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.

PUBLICATION BAN

A non-publication order was issued on November 27, 2008 under subsection 486.4 of the *Criminal Code*, in the proceedings in the Superior Court of Justice. The Committee is bound by and maintains this publication ban imposed in the matter of *Her Majesty The Queen v. Andrew Stephen Corbett* by the Superior Court of Justice. There shall be no publication of any information that might tend to identify the victims involved in this matter.

THE EVIDENCE

Counsel for the College entered into evidence the following additional documents:

Registered Member Information

Andrew Stephen Corbett is a member of the Ontario College of Teachers as shown on the *Registered Member Information*. (Exhibit 5)

Brief of Court Documents – Her Majesty the Queen v. Andrew Stephen Corbett

Counsel for the College entered into evidence a *Brief of Court Documents* (Exhibit 6) with respect to the criminal proceedings against the Member was submitted into evidence.

This *Brief* consisted of:

- A. Superior Court of Justice - Certified copy of Indictment dated February 17, 2008,
- B. Transcript of Guilty Plea Proceedings and Reasons for Sentence before the Honourable Mr. Justice Hill on November 27, 2008.

DECISION

Having examined the Exhibits filed, and based on the evidence and the submissions made by counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Andrew Stephen Corbett is guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19). Further, the Committee finds that the Member engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the *Act*.

REASONS FOR DECISION

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted.

In the absence of evidence to the contrary, the Committee accepts the specific findings of fact contained in the *Brief of Court Documents* (Exhibit 6) that on or about November 27, 2008 the Member pleaded guilty to a charge that he, during a six month period, last, past and ending on or about the 28th day of February 2006, at the City of Mississauga, did unlawfully commit a sexual assault on Student No. 6, contrary to Section 271 of the *Criminal Code* (Canada). The Member was found guilty and the other charges against him of committing sexual assaults on five other students were withdrawn at the request of the Crown.

On or about November 27, 2008, the Member was given a suspended sentence for a period of fifteen months on mandatory statutory terms and was placed on probation. The Member was also ordered to [XXX] and to [XXX].

As a term of his probation, the Member was ordered to abstain from communicating or associating directly or indirectly with any of the students involved. Further, he was ordered not to be alone with any child under the age of fourteen years, except for immediate family members, unless in the presence of an adult.

The Committee finds that the Member's conviction for sexual assault of a student as outlined herein constitutes acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14) and 1(15) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the *Act*.

The Member's criminal conviction for sexual assault is a contravention of a law, which is relevant to his suitability to hold a Certificate of Qualification and Registration and has

caused a student to be put at risk, contrary to Ontario Regulation 437/97, subsections 1(16) and 1(17).

The Member's conduct was disgraceful, dishonourable, unprofessional and unbecoming a member contrary to Ontario Regulation 437/97, 1(18) and 1 (19).

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member; and
2. 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, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Member sexually assaulted a [XXX] year old student in his classroom, with other students present. He carried out the assault during the showing of a film, in a darkened classroom, deliberately targeting a student seated at the outside edge of the classroom. The Member seated himself next to the student, removed his shoe and placed his foot into the lap area of the student. The student, being alarmed by this, pushed his foot away. The Member then repeated the activity, rubbing his foot from the knee area up to the groin area. The student then pushed his foot away again.

The Committee finds the Member's actions constitute a serious breach of trust. The Member's actions were brazen and aggressive, being conducted in an open classroom with other students present. Sexually assaultive conduct towards children by a person in a position of trust is especially repugnant to our moral values and in turn amounts to seriously blameworthy conduct and a crime of deserved gravity.

Revocation of the Member's certificate of qualification and registration is the appropriate penalty, given the serious nature of the Member's criminal conviction and the need to protect children entrusted to the care of the teaching profession. Revocation of the Member's certificate ensures that he will not ever again teach in the publicly funded schools of Ontario. Further, a member who pleads guilty to and is convicted of sexual assault of one of his students, who is subject to conditions which do not allow him to be in the company of children under the age of 14 years and who is [XXX], should not be permitted to teach in Ontario.

The Committee orders publication of the finding and order with the name of the Member.

Publication, with name, will provide a general deterrent to the membership and informs the profession that this serious misconduct will result in the most severe penalty,

revocation. Publication informs the public that the College denounces this type of conduct.

The Committee is satisfied that the penalty is appropriate in the circumstances and serves to protect the public interest.

Dated: May 20, 2009

Brent Hamelin
Chair, Discipline Panel

Tammy Bush
Member, Discipline Panel

John Tucker
Member, Discipline Panel