

**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 Jon Anthony de Veth, OCT, a member of the Ontario College of Teachers.

PANEL: Mel Greif, Chair
Brent Hamelin, OCT
Robert Ryan, OCT

BETWEEN:	)	Erica Richler
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
	)	Jon Anthony de Veth,
JON ANTHONY DE VETH	)	on his own behalf
(CERTIFICATE # 128390))	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: October 13, 2010

REASONS FOR DECISION

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 13, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated April 22, 2010 (Exhibit 1) was served on Jon Anthony de Veth (the “Member”), providing him with notice that the Discipline Committee of the Ontario College of Teachers would meet on May 10, 2010 to set a date for a hearing, and specifying the charges. The Discipline Committee subsequently set October 13, 2010, as the date for the hearing on the merits.

Jon Anthony de Veth was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Jon Anthony de Veth in the *Notice of Hearing*, (*Exhibit 1*) dated April 22, 2010, are as follows:

IT IS ALLEGED that Jon Anthony de Veth 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 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 thereunder, contrary to Ontario Regulation 437/97, subsection 1 (15);
- (c) 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

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

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. At all material times, Jon Anthony de Veth (the “Member”) was employed by the [XXX] as principal of the [XXX] (the “School”).

2. During the 2007-2008 academic year, and specifically between 7 September 2007 and 28 May 2008, the Member published a weekly publication, entitled the “Friday Flyers”, which contained school announcements together with content which included:

- (a) names of staff members in jokes, some of which were of a sexual nature or made reference to drugs and/or alcohol;
- (b) references to the names of some students of the School in connection with:
 - (i) a statement about behavioural issues of three [XXX] male students;
 - (ii) the weight of an [XXX] year old [XXX] female student; and
 - (iii) a sexual joke using names of three [XXX] male students;
- (c) references and jokes related to sexual matters including sexual intercourse, masturbation, penis size, adultery, polygamy, erection

dysfunction medication, chastity, venereal disease, incest and/or sexual abuse of a child, and/or bestiality;

- (d) jokes that made specific reference to race;
- (e) references and jokes, several of which referred directly to school staff, staff meetings and after school social functions, specifically regarding the use of drugs and alcohol;
- (f) several jokes that specifically referenced women and/or female anatomy, as well as derogatory jokes about wives;
- (g) jokes regarding harassment and discrimination training provided to staff and health and safety department;
- (h) jokes which made reference to a leading terrorist suspect, a terrorism attack, learning disabilities, mental health, capital punishment and transvestites; and
- (i) a statement made, following harassment and discrimination training on or about 30 November 2007: “To all staff, ‘you have the right to know’, that comments made in this newsletter do not intentionally contain harassing, sexual or culturally religious insults. You must understand that they are written by a mentally disabled male bigot and therefore are not subject to [XXX] discrimination and harassment policies. Remember that you ‘have the right to refuse’ to read this newsletter”.

MEMBER’S PLEA

The Member denied the allegations set out in the *Notice of Hearing*.

OVERVIEW

Jon Anthony de Veth is a member of the Ontario College of Teachers. At all material times he was employed by the [XXX] as principal of the [XXX] (the “School”). During the 2007-2008 academic year, between September 7, 2007 and May 28, 2008, the Member published a weekly newsletter, entitled “Friday Flyers” which contained school announcements together with content which may have been offensive to some teachers. It is for the Committee to determine whether the Member is guilty of professional misconduct for writing and distributing these flyers.

THE EVIDENCE

The Committee heard and received evidence in the form of witness testimony and tendered exhibits.

The Witnesses

The College called two witnesses, Daniel Shilling and Nicholas Howard. The Member also testified before the Committee. The Member called Jennifer Joseph and James Campbell as witnesses.

Testimony of Daniel Shilling

Daniel Shilling is 1st Nations Manager for the [XXX]. As such, he is the most senior administrator responsible for the elementary School. The witness established that there was a human resources policy in place that was expressed through the Employees Handbook 2004 (Exhibit 2) and was applicable to all employees, including teachers of [XXX]. The Member was made aware of these human resources policies. On becoming

aware of the content of the flyers, the witness requested a review by the Band General Counsel. The final report of the General Counsel confirmed that [XXX] Principal Jon de Veth had been publishing weekly flyers for all [XXX] staff from Friday September 7, 2007 to May 28, 2008 that included highly offensive and inappropriate content for the workplace, in breach of [XXX] work place policy, and in breach of his professional and ethical standards as a member of the teaching profession. The report also concludes that the conduct constituted sexual harassment in that it was repeated and persistent communication of a sexual nature that was deliberate and unwelcome and which the principal knew or should have known would be unwelcome. The testimony of the witness was credible and demonstrated that there was a breach of the human resources policy of the Band.

Testimony of Nicholas Howard

Nicholas Howard had been a teacher at the school since 2003. He had been acting principal since August 2010. The witness confirmed that the Friday Flyers were prepared by the Member on a weekly basis and placed in the mail boxes of each teacher in the secretary's office. This witness testified that he read the first Flyer, found the comments, anecdotes and general tone of this flyer to be offensive. Consequently he decided not to read further editions. The witness stated that the comments (in the flyers) "had no place for this writing within a school"

Testimony of Jennifer Joseph

Jennifer Joseph was a teacher at the School during the Member's tenure as principal. The witness verified that the Member authored the Flyers and were placed in the mail boxes of each teacher. The witness offered her opinion on the positive leadership qualities of the Member. The Committee restricted itself to considering the issue before it, which is the nature of the communication through the Flyers and not the Member's leadership.

Testimony of James Campbell

James Campbell was also a teacher at the School during the Member's tenure as principal. His evidence was, that in his opinion, the Member was professional, committed and approachable. The witness also affirmed that the Member authored the Flyers and was responsible for their content.

Testimony of the Member

In examination in chief, the Member acknowledged authorship and responsibility for the Flyers. His view was that the Flyers were beneficial and he implied that they did not breach any standards of communication. He stated that he had no complaints about their content from his staff. He stated that the Flyers were not unprofessional and he felt that they were well received.

In cross-examination, the Member stated that the Flyers were not inappropriate and were not offensive.

The Exhibits

The following exhibits were entered into evidence:

Exhibit No.

1. Notice of Hearing: Ontario College of Teachers and Jon Anthony de Veth, April 22, 2010
2. [XXX] Employee Handbook
3. [XXX] Friday Flyers Investigation
4. [XXX] Friday Flyers Investigation Final Report
5. Letter dated October 8, 2010 from J. Greg Plyley
6. Registered Member Information of Jon Anthony de Veth.

Assessing the Evidence

The Committee reviewed the evidence with special attention being given to the [XXX] Friday Flyers Investigation (Exhibit 3) and the [XXX] Friday Flyers Investigation Final Report (Exhibit 4).

Exhibit 3, the Friday Flyers, included names of staff members in jokes, some of which were of a sexual nature, referred to students in the school, including behavioural issues, weight issues, references to sexual matters including sexual intercourse, masturbation, penis size, made references to race and use of drugs and alcohol. This demonstrates poor judgment and is a breach of the standards of the profession, is unprofessional and unbecoming a member and entirely inappropriate within a school setting.

Exhibit 4 reviews the content of the Flyers and confirms the inappropriate nature of the material found within the Flyers and the response of the [XXX] administration.

Submissions of the College

College Counsel submitted that the issue before the Committee is the content of the Friday Flyers. It is not about the School and their human resources practices. Through use of a chart with references to the Flyers, Counsel pointed out that the Member repeated his conduct weekly, during the majority of a school year with disregard for his professional obligations to staff, students and school community. In summary, College Counsel stated that the Committee should find the Member guilty on all heads of professional misconduct alleged in the Notice of Hearing because of the content of the Friday Flyers.

Submissions of the Member

The Member, in his defence, believed the Friday Flyers had a positive impact on the school and that the Flyers did not contribute in any way to a toxic environment in the school. He stated that the test should be whether the Flyers had a negative effect on the school environment. He said he believed that the Flyers helped improve conditions in the school.

DECISION

The College bears the onus of proving the allegations in accordance with the civil standard of proof, being the balance of probabilities using clear, cogent and convincing evidence.

Having considered the evidence and onus and standard of proof, and the submissions made by counsel for the College and the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Jon Anthony de Veth committed acts of professional misconduct, being more particularly

breaches of Ontario Regulation 437/97 subsections 1(5), 1(15), 1(18) and 1(19) as set out in the *Notice of Hearing*.

REASONS FOR DECISION

As a principal of a school in a position of leadership and responsibility, the Member should have recognized his obligation to demonstrate leadership in the quality of communication and to set standards for the entire school community. These standards should conform to the expectations of the wider community. The Member has clearly not maintained these standards. The Committee, having reviewed the content of the Flyers, finds that they contain the following inappropriate and offensive content:

names of staff members in jokes, some of which were of a sexual nature or made reference to drugs or alcohol; names of students with comments about behavioural issues, disabilities and sexual jokes; general jokes of a sexual nature; jokes with a specific reference to race; jokes directed at school staff, staff meetings and functions with a special regard to the use of drugs and alcohol; jokes that reference female anatomy and derogatory jokes about wives in general; jokes that denigrated harassment and discrimination training; inappropriate comments of a jocular nature about terrorism, learning disabilities, mental health, capital punishment and transvestites.

Communicating this type of information once to the staff would be significant in itself. In this instance, the Member communicated in this manner on an ongoing basis weekly through 23 weeks of the school year. The Committee finds and members of the teaching community should find such comments to be a breach of the standards and to be

unprofessional and unbecoming a member. Members should and would recognize the damage these types of communication have on a community.

The Committee requests the parties to provide written submissions with respect to penalty by December 30, 2010. The Committee will thereafter render its decision in writing with respect to penalty.

Date: November 22, 2010

Mel Greif
Chair, Discipline Panel

Brent Hamelin, OCT
Member, Discipline Panel

Robert Ryan, OCT
Member, Discipline Panel