

**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
John Domenic Di Pasquale, a member of the Ontario College of
Teachers.

PANEL: Bernard J. Adam, Chair
 Nancy Hutcheson
 Karen Mitchell

BETWEEN:)	
	)	Jane Langford, McCarthy
	)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS	)	Teachers, assisted by Jennifer
	)	Robinson, Law Clerk
)	
- and -)	
	)	Bernard Hanson, Cavalluzzo,
JOHN DOMENIC DI PASQUALE	)	Hayes, Shilton, McIntyre & Cornish
(CERTIFICATE #192971)	)	for John Domenic Di Pasquale
)	
)	
	)	Paul Le Vay, Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: May 3, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came before a panel of the Discipline Committee for a hearing on May 3,
2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated August 7, 2003 was served on John Domenic Di Pasquale, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 17, 2003 to set a date for a hearing, and specifying the charges.

John Domenic Di Pasquale was in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. **(Exhibit 1)**

The Allegations

The allegations against John Domenic Di Pasquale in the *Notice of Hearing*, dated August 7, 2003, are as follows:

IT WAS ALLEGED that John Domenic Di Pasquale is guilty of professional misconduct as defined in subsections 30(2) and (3) and 40(1.1) of 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 physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- c) he failed to comply with the Act, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- d) he failed to comply with the *Education Act*, R.S.O. 1990, c. E.2 and specifically paragraph 264(1)(c) or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);

- e) he committed an act 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);
- f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- g) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the Act.

At the hearing, Counsel for the College withdrew allegations (b) and (g) as set out above and as set out in the *Notice of Hearing*.

Agreed Statement of Facts

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced as **Exhibit 2**, an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*.

The *Agreed Statement of Facts* provides as follows:

1. John Domenic Di Pasquale (“the Member”) is a Member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit 2, Tab “A”** is a copy of the Ontario College of Teachers Register Status Information respecting the Member.
2. The Member commenced employment with the Niagara Catholic District School Board (“the Board”) and its predecessors, in or about September 1989. At all material times, he was a secondary school teacher at [XXX] School (“the School”)

in Port Colborne, Ontario, and was, *inter alia*, coach of the [XXX] teams for the years 1995 – 2001.

3. Between 1996 and 1998, the Member engaged in several Q/A sessions with members of the [XXX] Team (“Team”) on sexual matters (“Q/A sessions”). In particular, the Member answered Team members’ inquiries about his sexual preferences, the act of sex itself and details of his own sexual experiences.
4. These Q/A sessions occurred in hotel rooms while the team was on Ontario Federation of Secondary School Athletic Associations (“OFSAA”) road trips. No other adult was present.
5. The Q/A sessions were voluntary; no member of the Team was forced to attend or actively participate, nor did any Team member complain that the Q/A sessions made her feel uncomfortable.
6. The Member did not engage in these Q/A sessions for sexual gratification.
7. Following a Q/A sessions in 1998, the Member voluntarily stopped the Q/A sessions.
8. The Member has not engaged in unlawful or improper discussions of a sexual nature with the Team, or any individual Team member or student at any time since that date.
9. By this document, the Member pleads no contest to the facts referred to in paragraphs 3 to 8 above, and states that:
 - (a) he understands the nature of the allegations that have been made against him;
 - (b) he voluntarily decided not to contest the allegations made against him;

- (c) he understands that a plea of no contest does not constitute an admission by him as to the facts or findings in any other civil, criminal or administrative proceeding;
- (d) he understands that by not contesting the allegations, he is waiving the right to require the College to prove the case against him and understands that the Discipline Committee can dispose of the issue of what finding ought to be made without a hearing;
- (e) he understands that the Discipline Committee can accept as correct the facts in paragraphs 3 to 8 above, for the purposes of this proceeding only;
- (f) he understands that the Discipline Committee can accept that the facts in paragraphs 3 and 4 constitute professional misconduct for the purposes of this proceeding only; and
- (g) he understands that any agreement entered into by him with the College respecting the penalty proposed does not bind the Discipline Committee panel.

Member's Plea

The Member, John Domenic Di Pasquale, accepts that the matters referred to in paragraphs 3 and 4 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, subsections 1(5), 1(14), 1(15), 1(18) and 1(19) as set out in the *Notice of Hearing* dated August 7, 2003.

Joint Submission as to Resolution and Penalty

1. In light of the Member's plea of no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee may accordingly treat the matters referred to in paragraphs 3 and 4 as constituting professional misconduct

and may find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) and 1(19).

2. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:

(a) require the Member to appear before the Committee to be reprimanded, and that the fact of the reprimand be recorded on the Register of the College for three (3) years from the date of this Order;

(b) direct the Registrar to impose the following terms and conditions on the Member's certificate of qualification and registration, said terms and conditions to be recorded on the Register until said conditions are met, or until such time as the Discipline Committee has imposed an alternative penalty:

(i) the Member agrees and undertakes to enrol in and complete, at his own expense, a course of instruction, approved by the Registrar, on appropriate teacher/student boundaries;

(ii) the Member undertakes to provide to the Registrar a letter of confirmation from his Principal(s) from 1998 to the present, that he has not been the subject of any other complaints of sexual misconduct from students, staff members or parents during that time, apart from those that formed the subject of the initial complaint to the College herein and associated complaints;

(iii) the Member agrees and undertakes that should the Member commence employment at another school or school Board at any time during the year following the date of this order, the above terms and conditions will apply with equal force and effect; and

- (iv) the Member agrees and undertakes that if the said terms and conditions set forth in paragraphs (i) to (iii) above are not met, this matter will be referred back to the Discipline Committee, or any panel thereof, on notice to the Member, for a hearing on the appropriate penalty, if any;
- (c) direct the Registrar to advise the Board of the terms of this Order and shall request the Board to assist the Member in obtaining the letters of confirmation referred to in paragraph (b)(ii) above; and
- (d) direct that the findings and order of the Committee, including the Member's full name, be published in the official publication of the College *Professionally Speaking/Pour parler profession*.

Decision as to Finding

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, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that John Domenic Di Pasquale committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) and 1(19).

Decision as to Penalty

The Committee accepts the joint submission as to penalty and accordingly:

- (a) requires the Member to appear before the Committee to be reprimanded, and that the fact of the reprimand be recorded on the Register of the College for three (3) years from the date of this Order;

- (b) directs the Registrar to impose the following terms and conditions on the Member's certificate of qualification and registration, said terms and conditions to be recorded on the Register until said conditions are met, or until such time as the Discipline Committee has imposed an alternative penalty:
- (i) the Member agrees and undertakes to enrol in and complete, at his own expense, a course of instruction, approved by the Registrar, on appropriate teacher/student boundaries;
 - (ii) the Member undertakes to provide to the Registrar a letter of confirmation from his Principal(s) from 1998 to the present, that he has not been the subject of any other complaints of sexual misconduct from students, staff members or parents during that time, apart from those that formed the subject of the initial complaint to the College herein and associated complaints;
 - (iii) the Member agrees and undertakes that should the Member commence employment at another school or school Board at any time during the year following the date of this order, the above terms and conditions will apply with equal force and effect; and
 - (iv) the Member agrees and undertakes that if the said terms and conditions set forth in paragraphs (i) to (iii) above are not met, this matter will be referred back to the Discipline Committee, or any panel thereof, on notice to the Member, for a hearing on the appropriate penalty, if any;
- (c) directs the Registrar to advise the Board of the terms of this Order and shall request the Board to assist the Member in obtaining the letters of confirmation referred to in paragraph (b)(ii) above; and

- (d) directs that the findings and order of the Committee, including the Member's full name, be published in the official publication of the College *Professionally Speaking/Pour parler profession*.

Date: May 3, 2004

Bernard J. Adam
Chair, Discipline Panel

Nancy Hutcheson
Member, Discipline Panel

Karen Mitchell
Member, Discipline Panel