

**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 discipline proceedings against
Amadou Diallo, a member of the Ontario College of Teachers.

Heard: September 17, 2003

PANEL: Diane Leblovic (Chair)
Bernard J. Adam
Don Cattani

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**AMADOU DIALLO
(CERTIFICATE #106847)**

REASONS FOR DECISION, DECISION AND ORDER (S)

Jane Langford, McCarthy Tétrault, for Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Christopher Wirth of Stockwoods, Independent Legal Counsel

Amadou Diallo was not present, nor was he represented by Counsel.

This matter came before a panel of the Discipline Committee for a hearing on September 17, 2003 at the Ontario College of Teachers at Toronto.

A Notice of Hearing, dated March 25, 2003 was served on Amadou Diallo, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 5, 2003 to set a date for a hearing, and specifying the charges.

Amadou Diallo was not 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 Amadou Diallo in the Notice of Hearing dated March 25, 2003 are as follows:

IT IS ALLEGED that Amadou Diallo is guilty of professional misconduct and/or is incompetent as defined in sections 30(2) and (3) 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 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 particularly section 264(1)(c) thereof,

and the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);

- (d) 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);
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (f) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the member is either unfit to carry out his 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. Amadou Diallo, (the "Member"), is a member of the Ontario College of Teachers.
2. At all material times, the Member was employed by the Peel District School Board ("the Board"), and was a Probationary Grade 8 French core teacher at Lancaster Senior Public School ("Lancaster") from November 19, 1999 to September 2000, at which time he was transferred, as part of a school restructuring plan, to Morning Star Middle School ("Morning Star"). Throughout the Member's employment at Lancaster and Morning Star, he:
 - (a) experienced difficulty in sustaining an appropriate level of classroom discipline with his students;
 - (b) failed to give clear instructions which resulted in confusion on the part of the students and their inability to settle to the task at hand;
 - (c) failed to learn the names of his students and failed to monitor their attendance in class during his lessons;
 - (d) displayed a lack of oral proficiency in the English language;

- (e) prepared lesson and behaviour management plans which were lacking in detail, precision and completeness;
- (f) failed to display an acceptable standard of classroom management and programming skills;
- (g) lacked an understanding of the expectations of his teaching assignment, and when asked to submit long-range and weekly lesson plans, either submitted vague and incomplete plans or failed to submit plans at all;
- (h) failed to keep scheduled appointments;
- (i) abused his students verbally, psychologically or emotionally by making demeaning remarks, such as “Don’t be stupid”; by refusing to provide assistance to students when same was requested of him; failed to assess and mark students’ work in a meaningful and constructive manner; and
- (j) failed to return students work.

The specifics of (a) to (j) are set out in more detail below.

3. Very shortly after the Member commenced his teaching duties at Lancaster, it was clear that he was experiencing difficulties with both classroom management and programming skills.
4. In an effort to assist the Member, both a long term occasional teacher and a French resource teacher were directed by school administration to provide support to the Member. These individuals provided such assistance and made various recommendations and suggestions to the Member respecting, *inter alia*, the grouping of students by ability levels; types of assessment; reading strategies and reading resources. The Member was encouraged to provide clear instructions to his students and to communicate with them his expectations of acceptable behaviour.
5. A Teacher Evaluation of the Member was carried out in early May 2000 by the Principal at Lancaster. The observations noted in the Teacher Evaluation Report dated May 17, 2000, included:

“Mr. Diallo’s response to student behaviour is often ineffective. He has demonstrated limited ability to work

co-operatively with administration and support personnel. Suggestions are rarely implemented and recommendations rarely acted upon..... He often seeks support from colleagues for management of student behaviour but offers little support or cooperation to them. Mr. Diallo has also requested support from parents without the ability to assure parents an effective program is in place.

Mr. Diallo has rarely developed positive respectful relationships with students in his grade 8 Core French classes. Students engage in verbal battles and confrontations with Mr. Diallo on a daily basis. The classroom environment is neither safe nor stimulating for students. Inappropriate behaviour is rarely dealt with in a consistent and effective manner. Students are permitted to 'talk and do what they please'.

Classrooms have been damaged while under Mr. Diallo's care: *the list of damage set out below this observation includes 'a fire was started in the desk by a student'*

Inappropriate behaviour is consistently ignored or dealt with [in] an ineffective manner. Mr. Diallo engages in arguments both with individuals and with the class as a whole. This had led to students using obscenities directed at Mr. Diallo..... Mr. Diallo's classroom environment rarely promotes self-esteem, learning and equity.....

Mr. Diallo spoke quickly and failed to ensure students were attending, often speaking over the students' voices..... He rarely used teaching strategies which would motivate or stimulate student learning..... Students were confused as to what was expected of them and the noise level escalated..... Often student questions were not understood and therefore were not responded to effectively. In addition, students were not encouraged to extend their thinking or make connections with their everyday life experiences.....

Mr. Diallo is seldom able to develop an atmosphere which encourages openness, trust and mutual respect with students, parents and colleagues. Mr. Diallo experiences difficulty communicating effectively both in oral and written forms. He also experiences difficulty demonstrating active listening and effective listening skills.

Mr. Diallo, despite the support of administration, staff, resource and parents, continues to be ineffective in the classroom.....”

6. By a note to the Member dated May 24, 2000, the Principal requested that the Member provide long range plans for the rest of the term; weekly lesson plans; and a behaviour management plan. Despite the providing to the Member of specific guidelines and examples of lesson plans, the Member failed to provide the requested long range and weekly lesson plans, and the documentation provided by him lacked consistency; was incomplete, generic, vague and insufficient, in that it failed to indicate clearly what was taught, when it was taught; what instructional strategies were used; how the students were to be engaged; how students’ work was to be assessed and evaluated, and there were major gaps in understanding and practice in the Member’s attempts to meet the simple requests in programming.
7. The Member continued to have difficulty with classroom management, and in June 2000, the Member was involved in a verbal confrontation with one of his male students, [■]
8. Almost immediately following the Member’s transfer to Morning Star on or about September 1, 2000, the difficulties being encountered by the Member in his classroom management continued. The Principal at Morning Star became concerned about the quality of program being delivered by the Member and the Member’s apparent inability to communicate clearly with both the students, the faculty and the administration. Other staff members complained to school administration about the noise in the Member’s classroom; the students complained that the Member spoke to them in a demeaning and sarcastic manner; failed to provide assistance to them in class; would say things such as “Don’t be so stupid” when they asked questions; and failed to return their work.
9. By letter dated September 29, 2000, and following discussions with the Member, the Principal at Morning Star set out his concerns and expectations; provided the Member with contact information for a French Resource Teacher; and advised

the Member that a formal evaluation process would commence, including visits to the Member's classroom to observe his teaching. The Principal requested that the Member provide teaching plans for his review.

10. In early October 2000, following further discussions between the Member and the Principal at Morning Star and the receipt and review by the Principal of the Member's plans, the Principal advised the Member, by letter dated October 2, 2000, about the inadequacy of the plans, and the absence of precisely those elements necessary for child participation and management, which elements the Principal had identified to the Member to be lacking in his interaction with his students and had requested be included in the plans to be provided to him by the Member.
11. Between October 4 and October 13, 2000, several complaints relating to the Member's interaction with them and his teaching methodology were received by school administration from students. A classroom observation of the Member, carried out by a Program Implementation Resource Teacher on October 10, 2000, was reviewed with the Member. Suggestions were made to the Member about the way in which he could effect improvement in his management of his students, in light of the administration's increasing concerns about student safety in the environment which had been created in the Member's classroom.
12. At a meeting with the Member on October 13, 2000, at which both the Principal of Lancaster and the Principal of Morning Star were in attendance, the earlier Teacher Evaluation Report of May 17, 2000 was again reviewed with the Member line by line. As well, the Teacher Evaluation report dated October 13, 2000, was discussed with the Member. This latter report concluded:

"Mr. Diallo continues to be ineffective in all aspects of a teacher's role, specifically:

- classroom management
- long range, short range and daily planning
- team collaboration

- implementation of curriculum
- implementation of appropriate assessment and evaluation techniques
- communication skills

Despite the resourcing support Mr. Diallo has received, the students' French programme remains ineffective."

13. The Member acknowledged his understanding of the concerns noted. The Member was encouraged to contact his Federation about the reports. At follow-up meetings on October 16 and 17, 2000, the Principal expressed his continuing concerns about the program being offered by the Member; and explored with the Member whether the setting at Morning Star was one in which the Member believed he could reach his true potential. The Member indicated to the Principal that perhaps Morning Star was not a setting conducive to his achieving such performance goals. The Member advised that he was considering resigning from his position and wished to leave the school amicably. The Principal counselled the Member against any hasty decision-making and encouraged the Member to first take the steps necessary to improve his performance by following the various recommendations and suggestions that had been made to him.
14. The Member's difficulties with the management of his students continued unabated. A further Teacher Evaluation Report which had been planned was postponed, following consultation with the Superintendent of Schools for the Board, in order to provide the Member with an opportunity to attend at and then implement strategies from a Behaviour Management workshop offered by the Elementary Teachers Federation of Ontario on October 27 and 28, 2000.
15. Throughout November and December 2000, the Member continued to experience serious difficulty with his classroom management. Specifically, an Unsatisfactory Performance Tracking Sheet recorded reports concerning the Member's class being out of control with students out of their seats; candy being thrown around; students not on task; and students roaming the hall with the

Member unaware of their absence. The Principal continued to receive various complaints from students and from parents about the Member's behaviour in class, including reported verbal rebukes by the Member to several of his students and inappropriate marking of students' work. In response to the Principal's expressed concerns to the Member, the Member complained to the Principal about the students' lack of respect and their use of expletives in the classroom when he attempted to discipline them.

16. A Teacher Evaluation Report, signed by the Principal on December 22, 2000, stated that the Member's professional teaching performance continued to be unsatisfactory; that his planning was ineffective and he had not demonstrated the growth necessary in this critical area, despite extensive resourcing. In summary, the report, which the Member refused to sign, reads:

"Mr. Diallo's performance is unsatisfactory in the areas of Planning for Instruction and Assessment, Teaching and Learning Strategies, Learning Environment and Assessment and Evaluation. Although much effort by many groups and individuals has been made to assist and resource for performance improvement, little evidence of positive effect has been identified. To his credit, Mr. Diallo's lack of effectiveness has not come because of his lack of effort. Mr. Diallo is commended for his effort throughout the whole process. The fact however remains, based on this evaluator's observations, namely this classroom is not a successful place for student learning."

17. Following the receipt by the Member of a letter dated January 22, 2001 from the Superintendent of Schools for the Board, advising that the Superintendent would be attending at Morning Star to observe the Member's classroom and teaching practices on January 25, 26 and 29, 2001, the Member commenced a leave of absence, employing his sick day credits. Such absence from Morning Star continued until the March break.
18. During March break, the Member advised the Principal at Morning Star that he would be returning to school on March 19, 2001. Pursuant to such advice, the Superintendent and a representative of the Federation met with the Member on

Monday, March 19, 2001, to review with the Member the expectations respecting his performance standards, including the requirement that he submit weekly lesson plans. The Member agreed to meet these expectations, and following a meeting with the supply teacher who was teaching his class during his absence, went home purportedly to develop his lesson plans.

19. On March 24, 2001, the Member submitted a letter of resignation to the Board.
20. On March 27, 2001, the Board accepted the Member's resignation.

Member's Plea

The Member Amadou Diallo admits that the matters referred to in paragraphs 3 and 6 of the Agreed Statement of Facts constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1 (19) as set out in the Notice of Hearing dated March 25, 2003.

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced as Exhibit 3 an Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty, which provides as follows:

1. Amadou Diallo ("the Member") is a Member of the Ontario College of Teachers, first qualified in 1995.
2. At all material times between the Fall 1999 and the Winter 2001, the Member was employed by the Peel District School Board ("the Board") as a probationary Grade 8 French core teacher at Lancaster Senior Public School ("Lancaster") and Morning Star Middle School ("Morning Star"), respectively.

3. Throughout the Member's employment at Lancaster and Morning Star he experienced difficulties in sustaining an appropriate level of classroom discipline with his students.
4. The Member's difficulties were brought to the attention of the administration of Lancaster and Morning Star, respectively. Various supports were established to assist the Member.
5. The Member attempted to resolve his classroom management difficulties, but no demonstrable improvement was achieved.
6. The Member was the subject of three (3) unsatisfactory Teacher Performance Appraisals, dated May 19, 2000, October 26, 2000 and December 22, 2000.
(Exhibit 3, Tabs A, B and C)
7. The Member resigned from his employment with the Board in March 2001.
8. On or about April 24, 2001, the Board notified the College that the Member's competence was in issue and requested direction in respect to any terms, conditions or limitations placed on the Member's certificate of qualification and registration.
9. The Member loves to teach and has co-operated with the College throughout these proceedings.

By signing the Agreed Statement of Facts and Guilty Plea, the Member accepts that the matters referred to in paragraphs 3 to 6 above constitute conduct which failed to meet the standards of the profession, including a failure to maintain proper order and discipline in the classroom and to ensure a safe and productive learning environment, and pleads guilty to the allegations of misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (5), (7), (14), (15), (18) and (19).

Decision

Having examined the Exhibits filed, and based on the Agreed Statement of Facts and Guilty Plea and submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct, and in particular finds that Amadou Diallo committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15) 1(18) and 1(19).

Penalty

Counsel for the College advised the panel that a joint submission as to penalty had been agreed upon. In light of the fact that the Member was not present and was not represented by counsel, the Committee notes that the Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty (Exhibit 3) was signed by the Member on September 11, 2003.

The joint submission as to penalty provides as follows:

In light of the guilty plea, the Ontario College of Teachers and the Member jointly submit that the Discipline Committee find the Member guilty of professional misconduct, and jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case:

- (a) directs the Registrar of the Ontario College of Teachers ("Registrar") to suspend the Certificate of Qualification and Registration held by the Member for a period of six months, such suspension to be postponed for one (1) year from the date of this Order, to be imposed only if the Member fails to meet the following terms and conditions within one (1) year from the date of the Order:

- (i) the Member agrees and undertakes to produce to the Registrar within thirty (30) days of the date of this Order, a satisfactory Teacher Performance Evaluation for the year 2002/2003;
 - (ii) the Member agrees and undertakes that should the Registrar not receive the satisfactory Teacher Performance Appraisal for the year 2002/2003, the Member's Certificate of Qualification and Registration will be suspended immediately for one (1) year, or until such time as the Member produces the satisfactory Teacher Performance Appraisal for the 2002/2003 academic year;
 - (iii) the Member agrees and undertakes to inform the Registrar if he commences employment at any school or Board;
 - (iv) the Member agrees and undertakes to enrol in and complete, at his own expense two courses of study, approved by the Registrar, in classroom management and discipline and in effective lesson planning. The Member shall deliver directly to the Registrar proof of the successful completion of both of these courses within one (1) year from the date of this Order;
 - (v) the Member agrees and undertakes that two (2) further Teacher Performance Appraisals regarding his employment at any school or Board be conducted within one (1) year of the date of this Order, if the Member is so employed or within one (1) year of the date of any future employment;
 - (vi) the Member agrees and undertakes that should the Registrar fail to receive a report indicating the Member's continued satisfactory performance for the 2003/2004 academic year or thereafter, the Registrar will determine whether an investigation will be initiated in accordance with the *Ontario College of Teachers Act, 1996*, such investigation leading possibly to the imposition of the sentence herein;
 - (vii) the Member agrees and undertakes to inform the Registrar of any formal disciplinary action arising from his employment at any school or Board within one (1) year of the date of this Order; and
- (b) the Member agrees that the Registrar shall advise the Board employing the Member of the terms of this Order and shall direct the Board to immediately advise the Registrar of any formal disciplinary action taken in respect of the Member within the period of one (1) year from the date of the Order, and requests the Board's co-operation and assistance in

respect of the Teacher Performance Appraisals to be conducted pursuant to (v) above.

Penalty Decision

The Committee accepts the Joint Submission as to Penalty and accordingly:

- (c) directs the Registrar of the Ontario College of Teachers (“Registrar”) to suspend the Certificate of Qualification and Registration held by the Member for a period of six months, such suspension to be postponed for one (1) year from the date of this Order, to be imposed only if the Member fails to meet the following terms and conditions within one (1) year from the date of the Order:
 - (i) the Member agrees and undertakes to produce to the Registrar within thirty (30) days of the date of this Order, a satisfactory Teacher Performance Evaluation for the year 2002/2003;
 - (ii) the Member agrees and undertakes that should the Registrar not receive the satisfactory Teacher Performance Appraisal for the year 2002/2003, the Member’s Certificate of Qualification and Registration will be suspended immediately for one (1) year, or until such time as the Member produces the satisfactory Teacher Performance Appraisal for the 2002/2003 academic year;
 - (iii) the Member agrees and undertakes to inform the Registrar if he commences employment at any school or Board;
 - (iv) the Member agrees and undertakes to enrol in and complete, at his own expense two courses of study, approved by the Registrar, in classroom management and discipline and in effective lesson planning. The Member shall deliver directly to the Registrar proof of the successful completion of both of these courses within one (1) year from the date of this Order;
 - (v) the Member agrees and undertakes that two (2) further Teacher Performance Appraisals regarding his employment at any school or Board be conducted within one (1) year of the date of this Order, if the Member is so employed or within one (1) year of the date of any future employment;

- (vi) the Member agrees and undertakes that should the Registrar fail to receive a report indicating the Member's continued satisfactory performance for the 2003/2004 academic year or thereafter, the Registrar will determine whether an investigation will be initiated in accordance with the *Ontario College of Teachers Act, 1996*, such investigation leading possibly to the imposition of the sentence herein;
 - (vii) the Member agrees and undertakes to inform the Registrar of any formal disciplinary action arising from his employment at any school or Board within one (1) year of the date of this Order; and
- (d) the Member agrees that the Registrar shall advise the Board employing the Member of the terms of this Order and shall direct the Board to immediately advise the Registrar of any formal disciplinary action taken in respect of the Member within the period of one (1) year from the date of the Order, and requests the Board's co-operation and assistance in respect of the Teacher Performance Appraisals to be conducted pursuant to (v) above.

Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the Committee also orders that the findings of this hearing, as well as the name of the Member, be published in summary in the official publication of the College, *Professionally Speaking/Pour parler profession*.

**DATED AT TORONTO, THIS 25TH DAY OF SEPTEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE.**

Diane Leblovic, **Chair**

Bernard J. Adam

Don Cattani