

**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
Sean Robert Dickson, a member of the Ontario College of
Teachers.

PANEL: Bernard J. Adam, Chair
 Janet Cornwall
 Nancy Hutcheson

BETWEEN:)	
)	
)	David Leonard, McCarthy
)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS)	Teachers, assisted by Trevor Evans,
)	Senior Law Clerk
- and -)	
)	
SEAN ROBERT DICKSON)	Sean Robert Dickson was not
(CERTIFICATE #191550))	present, nor was he represented
)	
)	Nancy Spies, Stockwoods,
)	Independent Legal Counsel
)	
)	Heard: April 7, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came before a panel of the Discipline Committee for a hearing on April 7,
2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated September 12, 2001, was served on Sean Robert Dickson, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 24, 2001 to set a date for a hearing, and specifying the charges. The hearing was subsequently scheduled for April 7, 2004.

Sean Robert Dickson was not in attendance at the hearing. The Panel waited for more than one hour before proceeding with the hearing. The Member still failed to attend. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel.

(Exhibit 1)

The Allegations

The allegations against Sean Robert Dickson in the *Notice of Hearing* are as follows:

IT IS ALLEGED that Sean Robert Dickson is guilty of professional misconduct and/or incompetence 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 or the Education Act, Revised Statutes of Ontario, 1990, c. E2 and particularly, 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 performed acts or omissions 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); and
- (f) he displayed a lack of knowledge, skill or judgement 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 duties or that the member's Certificate should be made subject to terms, conditions or limitations.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Sean Robert Dickson (the "Member"), is a member of the Ontario College of Teachers.
2. At all material times, the Member was employed as a junior/elementary teacher in Ontario, by the Greater Essex County District School Board ("the Board").
3. On various dates between September 1998, and November 2000, the Member recorded on videotape the actions of approximately thirty female students, collectively referred to as "the students" who were between the approximate ages of 10 and 13 years, in a sexually suggestive and repetitive manner, by the oral use of lollipops and other similar objects.
4. The students were in Grades 5 to 8 at the time or times that they were videotaped. The initials, dates of birth, and grades, if known, of the students and the number of times that they were videotaped are set out in the following chart.

Name	Date of Birth	Grade at time of videotape	Number of Times Videotaped/ Types of Objects
[REDACTED]	[REDACTED] 1984	Possibly grade 8	1 or 2 / peanuts thrown into her mouth
[REDACTED]	[REDACTED], 1988	6	5 or more / lollipops, popsicles, bubble gum and soap bubbles
[REDACTED]	[REDACTED], 1987	5 or 6	2 / lollipop and bubble gum
[REDACTED]	[REDACTED], 1987	6	More than 15 / lollipops, popsicles and bubble gum
[REDACTED]	[REDACTED], 1984	8	2 / plastic egg, lollipop and bubble gum
[REDACTED]	Not known	Not known	1 / she threw candy into a mouth of another student

Name	Date of Birth	Grade at time of videotape	Number of Times Videotaped/ Types of Objects
[REDACTED]	[REDACTED], 1984	8	1 / lollipop
[REDACTED]	[REDACTED], 1988	6	At least 2 / popsicles and lollipops
[REDACTED]	[REDACTED], 1990	5	1 / lollipop
[REDACTED]	[REDACTED], 1988	5 or 6	At least 1 / lollipop
[REDACTED]	[REDACTED], 1988	5	More than 10 / lollipops, apples, bubble gum and popsicles
[REDACTED]	[REDACTED], 1985	6 & 8	5 / lollipop, bubble gum, soap bubbles
[REDACTED]	[REDACTED], 1985	7 & 8	3 / lollipop and popsicle
[REDACTED]	[REDACTED], 1988	6	2 / lollipop and popsicles
[REDACTED].	[REDACTED], 1987	6 & 7	More than 6 / popsicles, bubble gum, and lollipops
[REDACTED]	[REDACTED], 1985	8	1-2 / lollipop and soap bubbles
[REDACTED]	[REDACTED], 1987	6	Less than 10 / lollipops and bubble gum
[REDACTED]	[REDACTED], 1986	6 & 7	3 / lollipop
[REDACTED]	[REDACTED], 1986	6	More than 5 / lollipops soap bubbles and bubble gum
[REDACTED]	[REDACTED], 1988	6	1 / lollipop and bubble gum
[REDACTED]	[REDACTED], 1988	6	10-20 / lollipops and bubble gum
[REDACTED]	[REDACTED], 1990	5	1 / lollipop
[REDACTED]	[REDACTED], 1988	6	1 / lollipops and bubble gum
[REDACTED].	[REDACTED], 1984	7 or 8	1 / threw items into open mouth of another student who was on her knees
[REDACTED]	[REDACTED], 1987	5 & 6	6-10 / lollipops, soap bubbles, popsicles and bubble gum

Name	Date of Birth	Grade at time of videotape	Number of Times Videotaped/ Types of Objects
[REDACTED]	[REDACTED], 1988	6	2 / lollipop and gum
[REDACTED]	[REDACTED], 1988	6	At least 5 / lollipops, popsicles and soap bubbles
[REDACTED]	Not known	6 or 7	1 / lollipop
[REDACTED]	[REDACTED], 1986	6	2 / lollipops.
[REDACTED]	[REDACTED], 1985	8	3 / lollipop and plastic egg

5. In addition, in November 1999, the Member approached a student, [REDACTED], who was then approximately 9 years old, with a request that he videotape her, but her parents did not grant permission.
6. Further, the Member in 1998, asked another Grade 6 student, [REDACTED], whose date of birth is 3 August 1988, to be in a video, but she left the room before being videotaped.
7. More specifically, the Member invited the students to go to his classroom or portable at recess, during lunch, at night after school, or on weekends, or to his home, for the purposes of being recorded on videotape for what was described to the students by the Member as one or other of the following:
 - (a) "a video for a lollipop song he was teaching to a kindergarten class;"
 - (b) "a commercial;"
 - (c) "a noise-making contest;"
 - (d) "trying out a new computer to make special effects;"
 - (e) "a sophisticated video;"
 - (f) "a millennium video;"
 - (g) "a school project;" or
 - (h) "a Board of Education Project".

One student was told by the Member that he had sent the videotape to a "2000 ways to suck a sucker contest", while he told another student that the video was for "the mature crowd". Some of the students were filmed once and others were filmed repeatedly. No male students were invited to participate in the videotaping.

8. All of the videotape recordings involved the students sucking, licking and otherwise caressing with their mouths, as directed by the Member, large circular objects such as lollipops, popsicles and plastic eggs which were provided by the Member. The students were also asked to chew bubble gum and blow large bubbles from the bubble gum. In addition, some of them were asked to blow soap bubbles. The students were also recorded from a variety of angles.
9. While being videotaped, the students were instructed by the Member to suck the objects in a variety of ways including:
 - (a) spinning the entire lollipop around and around by using the stem to propel it;
 - (b) repeatedly moving the lollipop in and out of their mouth at a variety of speeds;
 - (c) placing only the top of the lollipop in their mouth and spinning it;
 - (d) repeatedly slapping the lollipop on their tongue; and
 - (e) quickly pulling the lollipop out of their mouth and making popping sounds with the lollipop.
10. Several of the students were given water and told to gurgle or let it drool down the side of their mouths. At least two students were invited to put snow on their mouths and let it melt for the video.
11. Some students including [REDACTED] and [REDACTED] were asked to suck on lollipops or popsicles, which were either taped to a desk or filing cabinet, while on their knees with their hands behind their backs.
12. The students were videotaped alone, in pairs, or in groups of three or four. One student, [REDACTED], was invited to baby-sit at the Member's home. When she arrived at the Member's home, the Member's children who were to be watched, were not there, and [REDACTED] was instead invited by the Member to the basement of his home where he videotaped her in a manner as described in paragraphs 8 and 9 above using bubble gum and a lollipop.
13. While he was videotaping the students, the Member would sometimes lock the door of the room and close the blinds. He explained to the students that he did that, so they would not be disturbed.

14. The students were individually recorded in 10-15 minute segments. The Member would instruct them as to where to sit, how to wear their hair, how to act and what to say. The students were sometimes recorded with different hairstyles (i.e. long, in ponytail, in two pigtails) in each segment. Also, the students were asked to put on sunglasses or makeup, which included different colours of lipstick, mascara and blush, for the videotaping. On the occasion that [] was videotaped at the Member's home, he asked her to undo her hair and let it fall and the Member then used his hand to fix her hair to make it fluffy.
15. The Member instructed the students not to speak during the filming other than to make comments of a suggestive nature which he instructed them to say while smiling, including:
 - (a) "wow, that sure is juicy"
 - (b) "aaah"
 - (c) "crazy"
 - (d) "wow, I'm lucky"
 - (e) "this tastes good"
 - (f) "wow, it's a super lollipop"
 - (g) "wow, it's a super sour pop"
 - (h) "yummy, that was good"
 - (i) "it's a juicy pop"
 - (j) "it's a large twister pop"

He also told two students to say, "this is nasty, how can people eat this stuff?" while pretending that they did not like the lollipop they were licking.

16. The Member occasionally used music to accompany the students' actions. For example, [] and [] were video-taped to the music of Britney Spears singing, "oops, I did it again...I played with your heart, got lost in the game...oops you think I'm in love..I'm not that innocent." One portion of the videotape included another Britney Spears song, "She's so lucky", the lyrics of which included, "Oh, she's so lucky, she's a star, but she dies, dies, dies of a lonely heart."
17. Several of the students were individually asked to kneel and put their heads back while a second student was then instructed to throw peanuts or candy into the mouth of the kneeling student. Another of the students was asked to lie on her back.

18. The Member invited six of the students, [█], and [█] for sundaes at Macdonald's before or after the filming, and on one occasion he had [█], and [█] to his home for dinner when there were no other persons present. The Member also drove [█] home on three occasions after videotaping her.
19. On the occasion of the graduation of [█] from grade 8, the Member sent roses to [█] and her mother.
20. Despite repeated requests to the Member by the students, they were never shown the finished version of the videotapes that were made of them.
21. The Member also videotaped two female teachers at the school as they sucked lollipops.
22. As a result of a report made to the Children's Aid Society, the Member was investigated by the Society.
23. On or about 17 November 2000, the Member was suspended by the Board, with pay, and following an investigation by the Board, the Member's employment with the Board was terminated on or about 16 January 2001.
24. On 10 January 2001, the Member was charged with two counts of Invitation to Sexual Touching contrary to section 152 of the *Criminal Code* (Canada). The Member was released on his own recognisance on the condition that he abstain from communicating with or associating with any witnesses and not be in the company of any person under the age of 14 years, unless accompanied by an adult over 21 years.
25. The aforesaid criminal charges, CAS investigation and termination, are public knowledge through the media coverage of aforesaid events involving the Member and the students.
26. The aforesaid activities and the publicity resulting from the said media coverage and communication within the general public has resulted in a reputation, image and lifestyle inconsistent with that expected of a member to enable the Member to discharge the duty of the Member to the public, the students and his employer.

Publication Ban

On April 7, 2004 the Discipline Panel made an order that there be no publication of any information that may disclose the identity of the students involved in this matter.

Member's Plea

The Panel 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.

Overview

Sean Robert Dickson is a member of the Ontario College of Teachers. At all material times, he was employed by the Greater Essex County District School Board (the "Board") as a junior/elementary teacher, in the province of Ontario.

At issue is whether or not the Member videotaped the actions of female students in Grades 5 to 8 in a sexually suggestive manner.

The Evidence

The College called two witnesses: Mary Jean Gallagher ("Gallagher"), Director of Education of the Greater Essex County District School Board and Detective Police Constable Mark Loop ("Loop").

Evidence of Gallagher

Gallagher is the Director of Education and Secretary to the Board of the Greater Essex County District School Board. She received a report from Superintendent McPherson in early November 2000 to the effect that the Member had been videotaping two female students inappropriately and that a videotape had been recovered from the Member. This tape was turned over to the police who made three copies and provided one to the Board. The Children's Aid Society (CAS) was already involved as a result of a

complaint by one of the girl's parents and Gallagher testified that the Board subsequently initiated its own investigation.

Gallagher stated that she reviewed the tape several days later and subsequently suspended the Member with pay, pending the results of the investigation. Gallagher stated that the content of the videotape was outside of the normal videotaping which occurs regularly in schools. She further stated that the Member's actions were a significant breach of trust and that they distressed her.

Gallagher received reports during the investigation from Superintendent McPherson that approximately 25 to 33 students, over the course of several years, had participated in similar videotaping with the Member. No other videotapes were recovered from the Member.

Based on the Board's investigation, Gallagher terminated the Member's employment in January 2001 and, as required under section 43.2 (1) of the *Ontario College of Teachers Act*, filed an employer notification with the College advising that the Member's employment had been terminated. She also filed a personal complaint against the Member with the Ontario College of Teachers because, as a member of the profession, she was embarrassed and felt very strongly that the Member did not belong in the classroom.

Evidence of Loop

Loop is a Detective with the Major Crimes Section of the police department and was assigned to investigate the Dickson matter. He attended at the School in early November 2000 and viewed the videotape with the Children's Aid Society worker who was also there. He then attended in the Principal's office with the Vice-principal present and determined that the videotape made by Dickson was the property of the Board. CAS subsequently handed over the tape to him. He testified that he made 3 copies, one for the prosecution, one for the defence and one for the police. A copy of this tape was entered as evidence at the criminal trial of Dickson.

After viewing the videotape, Loop confirmed that the tape shown to the Panel was a true copy of the tape he had seized. The tape was subsequently entered as an exhibit **(Exhibit 4)** and viewed by the Panel.

Loop also testified that he had interviewed 35 students and 3 teachers who had also been videotaped by the Member using objects such as popsicles, gum, snow, soap bubbles, and/or plastic eggs. Some were filmed at the Member's home, some at school and some filmed during the summer. The Member declined to be interviewed by the police.

Loop testified that two charges of Invitation to Sexual Touching contrary to section 152 of the *Criminal Code* (Canada) were subsequently laid against the Member.

The Videotape

Two female students were observed on the videotape (**Exhibit 4**). Student 1 was taped on November 2, 2000 and Student 2 was taped on November 3, 2000.

The students, while being videotaped, were seen:

- (a) spinning the entire lollipop around and around by using the stem to propel it;
- (b) repeatedly moving the lollipop in and out of their mouth at a variety of speeds;
- (c) placing only the top of the lollipop in their mouth and spinning it;
- (d) repeatedly slapping the lollipop on their tongue; and
- (e) quickly pulling the lollipop out of their mouth and making popping sounds with the lollipop.

Several times, the videotape was stopped and, when it resumed, the hairstyles of the students were changed, or music, make-up and jewellery had been added. The images on the videotape were sexually suggestive, simulating oral sex.

Brief of Court Documents – Regina v. Sean Dickson

A *Brief of Court Documents* with respect to the criminal proceedings against the Member was submitted as evidence (**Exhibit 3**). This brief consisted of:

- A. *Certified copy of Information* sworn January 11, 2001, showing finding of guilt in respect of counts 1 and 2, being that the Member “did for a sexual purpose invite or counsel “Student 1” and “Student 2”, persons under the age of fourteen years to touch directly with an object, namely a Blowpop Lollipop, her body contrary to section 152 of the *Criminal Code*”;

- B. *Reasons for Judgment of Mr. Justice Momotiuk* dated December 2001 – Ontario Court of Justice;
- C. *Reasons for Sentence of Mr. Justice Momotiuk* dated August 29, 2002 – Ontario Court of Justice; and
- D. *Reasons of Madame Justice Leitch* re Appeal of Sean Dickson from convictions and sentence, dated November 5, 2003 – Ontario Superior Court of Justice.

In summary, this brief confirms that the Member, with respect to the videotaping of students 1 and 2, was found guilty under section 152 of the *Criminal Code* (Canada) and sentenced to 4 months incarceration and a period of 2 years probation. The Member appealed the conviction and sentence. He lost on appeal.

In addition to Students 1 and 2 testifying at the criminal trial of the Member, three other students who had been videotaped in a similar manner and in similar circumstances to Students 1 and 2 testified. Both counsel agreed that the evidence of these three students could be admitted as similar fact evidence. The Judge found that the similar fact evidence was material and that it was properly admitted (**Exhibit 3, Tab B, pages 19-20**).

Decision

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof which the Panel is familiar set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Panel, in accordance with the *Bernstein* decision, was a balance of probabilities with the qualification that the proof must be clear and convincing and based upon cogent

evidence accepted by the Panel. The Panel also recognized that the more serious the allegation to be proved, the more cogent must be the evidence. The Panel viewed the allegations in this case to be very serious.

(ii) Decision

Having considered the evidence and the onus and standard of proof, the Panel finds the Member committed acts of professional misconduct as defined in section 30(2) of the Act, as alleged in paragraphs (a), (b), (c), (d) and (e) of the *Notice of Hearing*, and is incompetent as defined in section 30(3) of the Act as alleged in paragraph (f) of the Notice of Hearing. In particular, the Panel finds that the Member:

- (a) failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) abused a student or students physically, sexually, verbally, psychologically, and/or emotionally contrary to Regulation 437/97, subsection 1(7);
- (c) failed to comply with the Act or 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) performed acts or omissions 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) engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (f) 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.

Reasons for Decision

The Panel accepts the evidence given by Ms. Gallagher and Detective Constable Loop that the videotape (**Exhibit 4**) was made by and retrieved from the Member, Sean Dickson.

Detective Constable Loop testified that, during the course of his investigation, witnesses stated that the Member instructed them as to how they should behave on tape. Detective Constable Loop indicated that he had interviewed thirty-five students and three teachers who had also been videotaped by the Member over a period of years.

The Panel finds that on various dates between September 1998, and November 2000, the Member recorded on videotape the actions of approximately thirty of his female students, collectively referred to as "the students", who were between the approximate ages of 10 and 13. The students all had lollipops, popsicles or other similar objects in their mouths while being videotaped. The students were in Grades 5 to 8 at the time or times that the Member videotaped them. Evidence of two students in particular was presented on videotape.

Ms Gallagher testified that the Member was investigated and terminated by his Board for this conduct.

The *Brief of Court Documents* indicated that the Member was criminally charged with two counts of Invitation to Sexual Touching contrary to Section 152 of the *Criminal Code* (Canada) and was convicted on both counts.

The Panel accepts the Reasons for Sentence by Justice Momotiuk, and submissions by College Counsel, which indicate that the videotape portrays students simulating oral sex. The Panel finds that there is no educational purpose for this videotape.

Penalty

Counsel for the College submitted that the appropriate penalty be as follows:

1. revocation of the Member's certificate of qualification and registration;
2. imposition of a lengthy period of time limit within which the Member may apply for reinstatement; and
3. publication of the findings of the Discipline Panel, with the name of the Member in *Professionally Speaking/Pour parler profession*.

Penalty Decision

The Discipline Panel makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke immediately the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the findings and order of the Panel shall be published in summary, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.
3. Pursuant to section 30(7) of the *Ontario College of Teachers Act*, the Member may not apply for reinstatement for a period of at least ten years following the date of this order.

Reasons for Penalty Decision

The Member's videotaping of the students in this manner occurred over a number of years and involved in excess of 30 female elementary children. The Member maintained that this videotaping was for educational purposes and despite the requests of the students to view the tapes, he never made them available to anyone at the school. In his testimony in the criminal proceedings, he stated that all of the other videotapes he had made of students were inadvertently destroyed.

Although the Member stated in his criminal proceedings (as referenced in **Exhibit 3, Tab B**) that his videotaping was for a school project which had educational content and was

in accordance with the Ontario Education guidelines and was not for a sexual purpose, the Panel vehemently rejects these arguments.

Society always places a very heavy responsibility on teachers, including public respect and confidence in the teaching profession. The Panel finds that the Member abused his position of trust and authority, and regards this conduct to be blatantly reprehensible.

This behaviour is contrary to the *Standards of Practice for the Teaching Profession* and the *Ethical Standards for the Teaching Profession* as established by the Ontario College of Teachers. These standards represent the underlying principles of the professional behaviour by which all members are governed. The Panel finds the Member's behaviour totally unacceptable.

The Panel also finds that the Member displayed a lack of knowledge, skill, judgment and a disregard for the welfare of students of a nature and extent that demonstrates the Member is unfit to carry out his professional responsibilities.

Section 33 (4) of the *Ontario College of Teachers Act* specifies that an application for reinstatement following revocation shall not be made earlier than one year from the date of the order. This is of grave concern to the Panel in this matter, due to the extent to which the Member displayed a disregard for the welfare of students.

For these reasons, the Panel concluded that Sean Robert Dickson may not apply for reinstatement for a period of 10 years.

Date: May 13, 2004

Bernard J. Adam
Chair, Discipline Panel

Janet Cornwall
Member, Discipline Panel

Nancy Hutcheson
Member, Discipline Panel