

**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 David Savage Eastwood a member of the Ontario College of Teachers.

Heard: October 1, 2003

PANEL:        Bernard J. Adam (Chair)  
                  Ernie Checkeris  
                  Rosemary Fontaine

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

- and -

**DAVID SAVAGE EASTWOOD**

**(CERTIFICATE #116283)**

**REASONS FOR DECISION, DECISION AND ORDER (S)**

Jane Langford, McCarthy Tétrault, for Ontario College of Teachers, assisted by Trevor Evans, Senior Law Clerk

Howard Goldblatt, Sack, Goldblatt, Mitchell for David Savage Eastwood

Christopher Wirth of Stockwoods, Independent Legal Counsel

David Savage Eastwood was not present.

This matter came before a panel of the Discipline Committee for a hearing on October 1, 2003 at the Ontario College of Teachers at Toronto.

A Notice of Hearing, dated March 25, 2003 was served on David Eastwood, requesting attendance before the Discipline Committee of the Ontario College of Teachers on March 27, 2003 to set a date for a hearing, and specifying the charges.

David Eastwood 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 David Eastwood in the Notice of Hearing dated March 25, 2003 are as follows:

**IT IS ALLEGED** that David Savage Eastwood is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the Act and/or is incompetent as defined in section 30(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, and/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 laws and that contravention is relevant to his 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 a student who was 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);
- (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; and
- (i) 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. David Savage Eastwood, (the "Member") is a member of the Ontario College of Teachers.
2. At all material times the Member was employed by the Kawartha Pineridge District School Board as a teacher at South Monaghan Public School ("the School") in Baileboro, Ontario. The Member was a teacher of students in Grades 5, 6 and 7.

3. At all material times, [ ] and [ ], were female students of the Member.
4. [ ] was a student of the Member during the 1987-1988 school year.
5. [ ] was a student of the Member during the 1995-1996 school year.
6. [ ] and [ ] were students of the Member during the 1998-1999 school year.
7. [ ] and [ ] were students of the Member during the 1999-2000 school year.
8. [ ] and [ ] were students of the Member during the 2000-2001 school year.
9. [ ] and [ ] were students of the Member during the 2001-2002 school year.
10. While he was their teacher, the Member inappropriately touched and/or sexually assaulted and/or sexually interfered with the students referred to at paragraphs 4 to 9 above.

#### Member's Plea

David Eastwood admits the allegations set out in numbered paragraphs 3 through 5 of the Agreed Statement of Facts and pleads guilty to the allegations 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 Member pleads guilty, in relation to the matters referred to in paragraphs 3 to 5 of the Agreed Statement of Facts, to engaging in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act*. Also, the Member acknowledges that 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 certificate held by the Member should be made subject to terms, conditions or limitations, contrary to Regulation 437/97 and s. 30(3) of the *Act*.

The Member, David Savage Eastwood, accepts that the matters referred to in paragraph 14 of the Agreed Statement of Facts constitute professional misconduct and pleads no contest to allegations in professional misconduct against him 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), arising out of those matters. Also, in respect of those matters the Member acknowledges that 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 certificate held by the Member should be made subject to terms, conditions or limitations, contrary to Regulation 437/97 and s. 30(3) of the *Act*.

#### 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, Pleas of Guilt and No Contest and Joint Submission on Penalty, which provides as follows:

1. David Savage Eastwood (the "Member") is a member of the Ontario College of Teachers. Attached hereto and marked as Exhibit "A" is a copy of the Ontario College of Teachers Registry System Status re the Member.
2. At all materials times the Member was employed by the Kawartha Pine Ridge District School Board as a teacher at South Monaghan Public School in Bailieboro.
3. During the 1987-1988 school year, student no. 1 was a female grade 8 student of the Member. On or about 22 April 2003 the Member pleaded guilty to, and was

- found guilty of, a charge that he, some time between 1 September 1987 and 30 June 1988 at the Township of South Monaghan in the County of Peterborough, and elsewhere in the Province of Ontario, unlawfully did commit a sexual assault on student no. 1, contrary to section 271 of the Criminal Code of Canada.
4. During the 1999-2000 school year, student no. 2 was a female grade 8 student of the Member. On or about 22 April 2003 the Member pleaded guilty and was found guilty of a charge that between 1 September 1999 and 30 June 2000 at the Township of Otonabee, South Monaghan, in the County of Peterborough, and elsewhere in the Province of Ontario, unlawfully did commit a sexual assault on student no. 2, contrary to section 271 of the Criminal Code of Canada.
  5. During the 2001-2002 school year, student no. 3 was a female grade 7 student of the Member. On or about 22 April 2003 the Member pleaded guilty and was found guilty of a charge that between 1 September 2001 and 5 May 2002 at the Township of Otonabee, South Monaghan, in the County of Peterborough, and elsewhere in the Province of Ontario, unlawfully did commit a sexual assault on student no. 3, contrary to section 271 of the Criminal Code of Canada..
  6. On or about 22 April 2003 the Member was given a conditional sentence of one year to be served in the community. The conditions included that:
    - (a) he not associate or communicate directly or indirectly with students numbered 1, 2 and 3 referred to in paragraphs 3 , 4 and 5 above and students numbered 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 who are referred to in paragraph 14 below, or with any children under 14 years of age unless in the presence of a responsible adult; and
    - (b) that he cooperate with the Ontario College of Teachers in order that their investigation can proceed in a timely manner.
  7. Attached hereto and marked as Exhibit "B" is a copy of Information No. 021978 showing the pleadings of guilt, findings of guilt and order of Mr. Justice J.R. Morgan .

8. Attached hereto and marked as Exhibit "C" is a copy of the Conditional Sentence Order of Mr. Justice J.R. Morgan dated 22 April 2003.
9. The Member was also placed on probation for a period of two years following the completion of the conditional sentence referred to in paragraph 6 above. The terms of the probation order included, *inter alia*, the conditions with respect to the sentence referred to in paragraph 6 above. Attached hereto and marked as Exhibit "D" is a copy of the probation order dated 22 April 2003.
10. Attached hereto as Exhibit "E" is the transcript of proceedings before Mr. Justice J.R. Morgan on 22 April 2003. At those proceedings, Mr. Justice Morgan made an order pursuant to S. 486.3 of the *Criminal Code of Canada* banning the publication of any information that could disclose the identities of the students involved in the matter, and who are referred to in this document as student numbers 1 to 13.
11. The Information referred to in paragraph 7 above, the Conditional Sentence Order referred to in paragraph 8 above and the transcript of proceedings referred to in paragraph 9 above have therefore been edited to remove the names of those students. The charges described in the Information relate to the students referred to in paragraphs 3, 4, 5, 6, and 14 herein as follows:

<b>Charges in Information No. 021978</b>	<b>Students</b>
Charges Nos. 1 and 4	Student No. 4
Charges Nos. 2 and 5	Student No. 5
Charges Nos. 3 and 6,	Student No. 6
Charges Nos. 7 and 9	Student No. 7
Charges Nos. 8 and 10	Student No. 1
Charges Nos. 11 and 12	Student No. 8

Charges Nos. 13 and 14	Student No. 9
Charges Nos. 15 and 16	Student No. 10
Charge Nos. 17, 18, 19 and 20	Student No. 11
Charges Nos. 21 and 22	Student No. 2
Charges Nos. 23 and 24	Student No. 3
Charges Nos. 25 and 26	Student No. 12
Charges Nos. 27 and 28	Student No. 13

#### Guilty Plea

12. The Member hereby accepts that the matters referred to in paragraphs 3 to 5 above 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(16), 1(17), 1(18), and 1(19).
  
13. Further, the Member pleads guilty, in relation to the matters referred to in paragraphs 3 to 5 above, to engaging in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act*. Also, the Member acknowledges that 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 certificate held by the Member should be made subject to terms, conditions or limitations, contrary to Regulation 437/97 and s. 30(3) of the *Act*.

#### Plea of No Contest

14. At the time that the charges in respect of students nos. 1, 2 and 3 were laid, the Member was also charged with a number of other offences involving those students and other female students of the Member. The criminal charges in respect of those incidents were withdrawn by the Crown on 22 April 2003, at which time the Member gave his consent to those counts being withdrawn on the understanding that the factual allegations made by those students would not be disputed before the Ontario College of Teachers. The Member therefore pleads no contest before the Discipline Committee of the Ontario College of Teachers to the following charges:

- (a) that between 1 September 1987 and 21 May 1988 at the Township of South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario did unlawfully, without consent and inappropriately, touch student no. 1, previously referred to in paragraph 3 above, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (b) that between 1 September 1999 and 30 June 2000 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario did unlawfully, without consent and inappropriately, touch student no. 2, previously referred to in paragraph 4 above directly with a part of his body, to wit his hand;
- (c) that between 1 September 2001 and 8 May 2002 in the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 3, previously referred to at paragraph 5 above, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (d) that between 1 September 2001 and 8 May 2002 in the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 4, a female Grade 7 student of the

Member, a person under the age of 14 years directly with a part of his body, to wit his hand;

- (e) that between 1 September 2001 and 8 May 2002 in the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 5 , a female Grade 7 student of the Member, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (f) that between 1 September 2001 and 8 May 2002 in the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 6 , a female Grade 7 student of the Member, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (g) that between 1 September 1995 and 30 June 1996 at the Village of Norwood in the County of Peterborough and elsewhere in the Province of Ontario did unlawfully, without consent and inappropriately, touch student no. 7 , a female student of the Member who was under the age of 14 years, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (h) that between 1 September 2001 and 6 May 2002 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 8 , a female Grade 6 student of the Member, under the age of 14 years directly with a part of his body, to wit his hand;
- (i) that between 1 September 1998 and 30 June 1999 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent

and inappropriately, touch student no. 9 , a female Grade 6 student of the Member, a person under the age of 14 years directly with a part of his body, to wit his hand;

- (j) that between 1 September 2001 and 31 December 2001 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario, did unlawfully, without consent and inappropriately, touch student no. 10 , a female Grade 6 student of the Member, a person under the age of 14 years directly with a part of his body, to wit his hand;
- (k) that between 1 April 1999 and 30 June 2000 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario did unlawfully, without consent and inappropriately, touch student no. 11, a female student of the Member, a person under the age of 14 years, directly with a part of his body, to wit his hand. Further, between 1 September 2001 and 1 May 2002 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario did unlawfully, without consent and inappropriately, touch student no. 11, a female student of the Member;
- (l) that between 1 December 2000 and 6 May 2002 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario unlawfully did unlawfully, without consent and inappropriately, touch student no. 12 , a female student of the Member, a person under the age of 14 years directly with a part of his body to wit his hand;
- (m) that between 1 September 2000 and 6 May 2002 at the Township of Otonabee, South Monaghan in the County of Peterborough and elsewhere in the Province of Ontario unlawfully did unlawfully, without consent and inappropriately, touch student no. 13 , a female student of

the Member, a person under the age of 14 years directly with a part of his body, to wit his hand.

15. By this document, the Member, David Savage Eastwood, accepts that the matters referred to in paragraph 14 above constitute professional misconduct and pleads no contest to allegations in professional misconduct against him 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), arising out of those matters. Also, in respect of those matters the Member acknowledges that 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 certificate held by the Member should be made subject to terms, conditions or limitations, contrary to Regulation 437/97 and s. 30(3) of the *Act*.
16. By this document, the Member states that:
- (a) he understands the nature of the allegations that have been made against him;
  - (b) he understands that by signing this document he is consenting to the evidence as set out in Exhibits A to E being presented to the Discipline Committee;
  - (c) he understands that by pleading no contest to the allegations in paragraph 14 and guilty to the allegations in paragraphs 12 and 13, he is waiving the right to require the College prove the case against him and his right to have a hearing;
  - (d) this plea of no contest and plea of guilty was made voluntarily, unequivocally and with the benefit of independent legal counsel.

Proposed Penalty

17. In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member ask that the Discipline Committee find the Member guilty of professional misconduct and direct the Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, David Savage Eastwood.
18. The parties have not agreed upon the nature of publication and submissions will be made to the Discipline Committee on this issue.
19. The Member hereby undertakes:
  - (a) that he will immediately surrender his certificate of qualification and registration to the Registrar of the Ontario College of Teachers;
  - (b) that he will never teach again in any public or private school in the province of Ontario or elsewhere; and
  - (c) that he will never seek reinstatement of his Certificate of Qualification and Registration in the province of Ontario.
20. The Member consents that the said undertaking be recorded on the Register of the Ontario College of Teachers.
21. By this document, the Member acknowledges his understanding that any agreement between the College and defence counsel with respect to the penalty proposed in this document does not bind the Discipline Committee.

### Decision

Having examined the Exhibits filed, and based on the Agreed Statement of Facts, Pleas of Guilt and No Contest and Joint Submission on Penalty, and submissions made by

counsel, the Committee finds that the facts support a finding of professional misconduct and in particular finds that David Savage Eastwood 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(16), 1(17), 1(18), and 1(19); and that 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 certificate held by the Member should be made subject to terms, conditions or limitations, contrary to Regulation 437/97 and s. 30(3) of the *Act*.

#### Penalty

Counsel for the College referred the panel to the joint submission as to penalty that had been agreed upon as set out in the Agreed Statement of Facts. The Ontario College of Teachers and the Member ask that the Discipline Committee direct the Registrar of the Ontario College of Teachers to immediately revoke the Member's Certificate of Qualification and Registration, which the Member is to immediately surrender to the Registrar of the Ontario College of Teachers.

The Committee received submissions from both counsel with respect to publication of the Member's name which was not expressly dealt with in the joint submission.

Counsel for the College advised the panel that publishing the member's name would be in the public interest. It was also brought to the attention of the panel that one of the

conditions of sentencing in the criminal proceedings was that the Member would cooperate with the Ontario College of Teachers in the investigation of the proceedings and that the College would make a determination of the consequences of all of the charges against the Member. Counsel reminded the panel that the Member's conduct was not limited to one act of professional misconduct but were repeated offences and that the students involved would be looking to the College for its findings. Accordingly, she urged the Committee to follow past precedents and order that the Member's name be published.

Defence counsel agreed that the findings of the hearing should be published, along with the name of the Board, but urged that the Member's initials only be published in *Professionally Speaking/Pour parler profesion*. He stated that the Member had begun a process of rehabilitation and that not publishing his name would help him to rebuild his life in a new community.

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#### Penalty Decision

The Committee accepts the joint submission as to penalty and accordingly directs the Registrar of the Ontario College of Teachers ("Registrar") to immediately revoke the certificate of qualification and registration of David Savage Eastwood, which certificate the Member is to immediately surrender to the Registrar.

Pursuant to Section 30 (5), paragraph 3, 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*.

The Committee concluded that the proposed penalty is appropriate, having regard to all the circumstances, and is in the public interest.

**DATED AT TORONTO, THIS 1ST DAY OF OCTOBER, 2003  
BY ORDER OF THE DISCIPLINE COMMITTEE.**

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Bernard J. Adam, **Chair**

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Ernie Checkeris

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Rosemary Fontaine