

MEMORANDUM OF AGREEMENT

BETWEEN:

Ontario College of Teachers

- and -

Linda Louise Elder

WHEREAS Linda Louise Elder is a Member of the Ontario College of Teachers (Registry number 170121);

AND WHEREAS Brian P. McGowan, Registrar and Chief Executive Officer, initiated a complaint on May 10, 2007, with respect to the conduct or actions of Linda Louise Elder;

THE PARTIES to this agreement are the Ontario College of Teachers (the "College") and Linda Louise Elder (the "Member"). The Registrar's signature on this Memorandum of Agreement (the "MOA") does not bind the Investigation Committee in its function to consider and dispose of this matter.

WHERE THE INVESTIGATION COMMITTEE requests modifications to this MOA, the Dispute Resolution Administrator shall consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, the revised MOA shall become final and binding once ratified by the Investigation Committee.

WHERE THE INVESTIGATION COMMITTEE does not ratify the MOA or the parties do not accept the modifications, the complaint will proceed through the investigation process and will be considered by a differently constituted panel of the Investigation Committee. The second panel of the Investigation Committee will not be provided with nor will it consider this MOA.

Agreed Statement of Facts

The parties hereby agree to the truth and accuracy of the facts that are hereinafter expressed and agree to the receipt of this document by the Investigation Committee.

1. At all material times, the Member was employed by the Hamilton-Wentworth District School Board (the "Board") as an Educational Assistant at [REDACTED] School (the "School").
2. During the fall of 2005, the Member:
 - (a) picked up [REDACTED], a Grade [REDACTED] student with [REDACTED] turned her upside down, and pushed her back into the metal release bar on a door to open that door;
 - (b) dragged [REDACTED] across the cement on the school playground; and
 - (c) dragged [REDACTED] down a school hallway;

3. During the winter season of 2006, the Member:
 - (a) held onto the wrists of a student while bringing the student to the office;
 - (b) held onto a student's hand so tightly that the student's ring pinched his or her hand when the student failed to follow the Member's direction;
 - (c) on or about March 30, 2006, in an attempt to calm down [REDACTED], a male [REDACTED] student:
 - i. attempted to move [REDACTED] to a timeout chair in the classroom by holding onto his left hand and his underarm;
 - ii. held onto [REDACTED]'s upper arms;
 - iii. picked up [REDACTED] from behind and carried him out of the classroom; and
 - iv. held [REDACTED]'s wrists very tightly.
4. On or about September 11, 2006, the Member:
 - (a) grabbed the wrist of [REDACTED], a Grade [REDACTED] male [REDACTED] student, and:
 - i. pulled him out of his chair;
 - ii. pulled him out of the classroom;
 - (b) knee bashed [REDACTED] twice; and
 - (c) failed to adhere to Board policy and to directions from the School Principal when she smoked on school property.
5. The Member voluntarily admits the above particulars and understands that by doing so, she is waiving the right to require the College to prove the allegations against her and the right to a contested hearing.

Joint Submission on Resolution

The parties agree to resolve the complaint as follows:

6. the parties agree and undertake that upon ratification of this MOA, there shall be no further action taken, no appeal of any or all of the terms of this agreement, and no application for judicial review, providing the terms of this MOA are adhered to;
7. the parties agree and understand that if any phrase or paragraph of this MOA is deemed null and void, the MOA shall be read as though the phrase or paragraph was stricken from the MOA and the amended MOA shall remain in force and effect;
8. the Member agrees and undertakes that upon ratification of this MOA, she shall resign her membership in the College, pursuant to subsection 14(2) of the *Ontario College of Teachers Act, 1996*;
9. the Member agrees and understands that upon ratification of this MOA, the Registrar shall cancel her certificate of qualification and registration, pursuant to subsection 14(3) of the *Ontario College of Teachers Act, 1996*;
10. the Member agrees and understands that upon ratification of this MOA, she shall immediately surrender her certificate of qualification and registration to the Registrar;

11. the Member agrees and undertakes not to apply to the College for a certificate of qualification and registration for a period of one year following the ratification of this MOA;
12. the Member agrees and understands that:
 - (a) should she apply for membership in the College, readmission is not automatic; and
 - (b) in consideration of her application, the original complaint, the MOA and Investigation Committee's Decision will be reviewed;
13. the Member agrees and understands that upon ratification of this MOA, the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, shall include the following notation:

On (insert date of ratification by Investigation Committee), the Member resigned her membership in the Ontario College of Teachers and the Registrar cancelled her certificate of qualification and registration. At the time of the resignation, a professional misconduct investigation was in progress;
14. the Member agrees and understands that the College shall publish her name with a summary of the complaint and its resolution as contained in this MOA. Such publication shall be made in the College's official publication, *Professionally Speaking*, on the College web site, and in such other manner as the Registrar and Chief Executive Officer deems appropriate;
15. the Member agrees and understands that upon ratification of this MOA, the College shall make the Investigation Committee Decision and the MOA available to the public;
16. the Member agrees and understands that upon ratification of this MOA, the College shall provide notice of the cancellation of the Member's certificate of qualification and registration to those organizations routinely notified by the College of action, including but not limited to school boards, teacher federations or affiliates, and teacher licensing and governing bodies in Canada and elsewhere;
17. the Member agrees and understands that this MOA is the entire agreement between herself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this MOA;
18. the Member agrees that she has freely elected not to obtain representation from independent legal counsel or an affiliate of the Ontario Teachers' Federation;
19. the Member agrees and understands that should she breach this MOA by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this MOA to any employer, licensing body, or education authority who inquires about the Member's record with the College;

20. the Member agrees and understands that, in the event she breaches a term of this MOA, the College may conduct an investigation or hearing into this matter as permitted under the Ontario College of Teachers Act, 1996;

21. the Member agrees and understands that, in the event she breaches a term of this MOA, she is estopped from alleging, by way of defense, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date on which the College became aware of such a breach; and

22. the Member agrees and understands that, in the event she breaches a term of this MOA, the College may provide the Investigation, Executive, Discipline, or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate.

Dated at Hamilton this 22 day of January 2008
Town/City Day of mo. Month

[Signature]
Witness

[Signature]
Linda Louise Elder

Alex Talbot
Name of Witness - Please Print

Dated at Toronto this 21st day of February 2008
Day of mo. Month

n. Carpenter
Witness

[Signature]
Brian P. McGowan
Registrar and Chief Executive Officer

Nadine Carpenter
Name of Witness - Please Print

