

**DECISION OF THE INVESTIGATION COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS
IN THE MATTER OF**

**A COMPLAINT SUBMITTED BY THE REGISTRAR
REGARDING LINDA LOUISE ELDER**

PANEL: Brian Doubleday, Anne Marie Levesque, Paul Brazeau

IMPORTANT NOTICE

The Investigation Committee has disposed of this matter without a full investigation. The information contained within the following summary has been provided by the Complainant(s) and does not contain any input from the Member, Linda Louise Elder. Unless otherwise stated in its Decision, no determination has been made by the Investigation Committee in respect to the veracity, or otherwise, of the allegations and information provided by the Complainant(s).

On January 10, 2007, the Ontario College of Teachers (the "College") received a letter of notification regarding Linda Elder from the Hamilton-Wentworth District School Board (the "Board"), pursuant to section 43.3(1)(c) of the *Ontario College of Teachers Act, 1996*. During the 2006/2007 academic year, Ms Elder was an Educational Assistant at [REDACTED] School (the "School").

Ms Elder (the "Member") is a member of the College, whose certificate is currently suspended due to non-payment of fees.

According to information provided by the Board, in May 2006, the Member served an unpaid disciplinary suspension after using inappropriate and excessive physical force on a student.

On at least two previous occasions, the School's Principal reminded the Member of the importance of avoiding the physical restraint of students and of using de-escalation techniques.

On May 30, 2006, the Member received a letter of direction, reminding her that the Board expected her to comply with its policies.

On September 11, 2006, the Member used inappropriate physical force with a student while in a classroom setting. Following this incident, the Member was terminated from her employment with the Board.

On May 29, 2007, the complaint against the Member was assessed as suitable for the College's Dispute Resolution Program and the parties indicated that they were amenable to participating in dispute resolution.

The parties signed a Memorandum of Agreement, which, in their opinion, resolved the issues raised by the complaint.

Allegations

As the Complainant, the Registrar alleges that Linda Elder, an Educational Assistant at [REDACTED] School, in the Hamilton-Wentworth District School Board, acted unprofessionally when she used excessive physical means to correct or attempt to correct student behaviour that included:

1. during the fall of 2005:
 - a) picking up [REDACTED], a Grade [REDACTED] student with [REDACTED] turning her upside down, and pushing her back into the metal release bar on a door to open that door;
 - b) dragging [REDACTED] across the cement on the school playground; and
 - c) dragging [REDACTED] down a school hallway;
2. during the winter season of 2006:
 - a) holding onto the wrists of a student while bringing the student to the office;
 - b) holding 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;
3. on or about March 30, 2006, in an attempt to calm down [REDACTED], a male [REDACTED] student:
 - a) attempting to move [REDACTED] to a timeout chair in the classroom by holding onto his left hand and his underarm;
 - b) holding onto [REDACTED]'s upper arms;
 - c) picking up [REDACTED] from behind and carrying him out of the classroom; and
 - d) holding [REDACTED]'s wrists very tightly; and
4. on or about September 11, 2006:
 - a) grabbing the wrist of [REDACTED], a Grade [REDACTED] male [REDACTED] student, and:
 - i) pulling him out of his chair;
 - ii) pulling him out of the classroom;
 - b) knee bashing [REDACTED] twice.

Documents Considered by the Committee

- Request for Ratification
- Letter of notification from the Board to the Registrar re. the Member, dated January 8, 2007
- Letter from the College's Manager, Investigations to Superintendent John Forbeck requesting additional information, dated January 24, 2007, with attachment:
 - List of requested information, undated

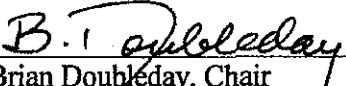
- Letter from Human Resources Officer Melanie Kivell to the College's Manager, Investigations re. request for information, dated April 6, 2007, with attachments:
 - Statement of [REDACTED] undated
 - Supervisor's Incident Investigation Report, dated March 30, 2006
 - Record of Suspected Child Abuse or Neglect, dated March 30, 2006
 - Statement of [REDACTED] undated
 - Statement of [REDACTED] undated
 - Notes of Principal Katie Carr, dated April 20, 2006
 - E-mail from Human Resources Officer Melanie Kivell to Principal Katie Carr and Superintendent Pam Reinholdt re. the Member, dated April 21, 2006
 - Statement of Secretary Linda Wilson, dated May 5, 2006
 - Handwritten notes of Human Resources Officer Melanie Kivell re. meeting between the Member and Board and School administrators, dated May 9, 2006
 - Statement of [REDACTED] dated May 9, 2006
 - E-mail from [REDACTED] to Principal Katie Carr re. the Member, dated May 9, 2006
 - Handwritten notes of Human Resources Officer Melanie Kivell re. meeting between Board and School administrators, dated May 10, 2006
 - Letter from Principal Katie Carr to the Member, re. confirmation of upcoming meeting, dated May 12, 2006
 - Letter from Principal Katie Carr to the Member re. suspension without pay, dated May 23, 2006
 - Handwritten notes of Human Resources Officer Melanie Kivell re. meeting between the Member and Board and School administrators, dated May 24, 2006
 - Notes re. follow-up meeting with the Member, dated May 30, 2006
 - Letter from Principal Katie Carr to the Member re. "mini-breaks", dated May 30, 2006, with attachment:
 - Educational Assistant Job Description, dated September 1999
 - Grievance submitted by the Member re. suspension, dated May 30, 2006
 - Grievance Summary – Step 2, dated May 30, 2006
 - Letter from the Children's Aid Society to the Member re. verification of allegations, dated May 31, 2006
 - Handwritten notes Human Resources Officer Melanie Kivell re. meeting between Board administrators and the Member's union, dated June 20, 2006
 - Letter from Associate Director Chuck Reid to COPE President Elaine Sinha re. response to Step 2 grievance, dated July 4, 2006
 - Record of Suspected Child Abuse or Neglect, dated September 11, 2006
 - Map of the Classroom, dated September 11, 2006
 - Handwritten notes of Principal Katie Carr, dated September 11, 2006
 - Handwritten notes re. [REDACTED], undated
 - Member's statement, dated September 11, 2006
 - Statement of [REDACTED] dated September 11, 2006
 - E-mail from Principal Katie Carr to Superintendent Pam Reinholdt re. incident involving the Member, dated September 11, 2006

- Letter fro Principal Katie Carr to the Member re. assignment to home, dated September 11, 2006
- Statement of [REDACTED] dated September 12, 2006
- Statement of [REDACTED], dated September 12, 2006
- Statement of [REDACTED], dated September 12, 2006
- Letter from Principal Katie Carr to the Member re. confirmation of upcoming meeting, dated September 26, 2006
- E-mail from Principal Katie Carr to Board administrators re. scheduled meeting with the Member, dated October 2, 2006
- Letter from Principal Katie Carr to the Member re. rescheduled meeting, dated October 2, 2006
- E-mail from Principal Katie Carr to Board administrators re. police investigation, dated October 3, 2006
- Handwritten notes of Human Resources Officer Melanie Kivell re. meeting between the Member and Board and School administrators, dated October 10, 2006
- Notes of Principal Katie Carr re. conversation with [REDACTED] dated October 11, 2006
- Handwritten notes, undated
- Letter from Principal Katie Carr to the Member re. scheduled meeting, dated October 20, 2006
- E-mail from Principal Katie Carr to Board administrators re. CAS and the police, dated October 26, 2006
- E-mail from Principal Katie Carr to Board administrators re. [REDACTED] information, dated October 27, 2006
- Handwritten notes re. interview of [REDACTED] dated October 27, 2006
- Handwritten notes re. interview of [REDACTED], undated
- Information Gathering Summary Chart, dated November 6, 2006
- Information Gathering Summary Chart with handwritten notes, dated November 6, 2006
- Handwritten notes re. meeting with the Member, dated November 6, 2006
- Letter from the Children's Aid Society to Principal Katie Carr re. investigation, dated November 22, 2006
- E-mail from [REDACTED] to Human Resources Officer Melanie Kivell re. Member's Non-violent Crisis Intervention certification, dated January 29, 2007
- Board's Educational Assistant Role Description, dated February 2007
- Letter from Manager, Employee Relations John Horgan to the Member re. scheduled meeting, dated March 2, 2007
- Handwritten notes re. meeting between the Member and School and Board administrators, dated March 7, 2007
- Letter from Superintendent John Forbeck to the Member re. termination of employment, dated March 7, 2007
- Letter from Director Chris Spence to the Registrar re. termination of the Member's employment, dated March 8, 2007

- Memo from the Registrar to the Investigations and Hearings Co-ordinator re. initiating a complaint against the Member, dated May 10, 2007, with attachment:
 - Request to Initiate Investigation Form signed by the Registrar re. the Member, dated May 10, 2007
- Letter of notification from the Registrar to the Member, dated May 25, 2007
- Memo from the College Investigator to file re. notifying the Member of the complaint, dated May 28, 2007
- Letter from the College Investigator to the Member re. due date for response, dated September 21, 2007
- Memo from the College Investigator to file re. conversation with the Member, dated November 16, 2007
- Letter from the Member to Whom It May Concern re. resignation of College membership, dated December 10, 2007
- Fax from the College Investigator to the Board re. unclear copies of documents, dated May 3, 2007, with attachment:
 - Copies of unclear documents
- Fax from the College Investigator to the Board re. unclear copies of documents, dated February 25, 2008
- Clear copies of documents, provided by Human Resources Officer Melanie Kivell, undated
- Memorandum of Agreement signed by the parties

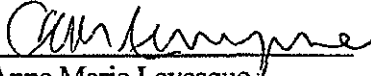
Decision of the Committee

On April 24, 2008, a panel of the Investigation Committee considered this complaint and, in accordance with the provisions of 26(5)(d) of the *Ontario College of Teachers Act, 1996*, the Investigation Committee ratified the attached Memorandum of Agreement. This is based on the opinion that the terms of this Agreement resolve the complaint in the public interest.


 Brian Doubleday, Chair


 Paul Brazeau

I dissent.


 Anne Marie Levesque