

**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 Peter John Emery, a member of the Ontario College of Teachers.

PANEL: Jacques Tremblay, Chair
Rosemary Fontaine
Amin Saab

BETWEEN:)	
	)	Brian Wasyliw,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
PETER JOHN EMERY	)	Gary Hopkinson,
(CERTIFICATE #359239)	)	Green & Chercover,
	)	for Peter John Emery
)	
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: October 16, 2006

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 16, 2006 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated December 7, 2005 was served on Peter John Emery (the “Member”), requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 16, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for October 16, 2006.

Peter John Emery was not in attendance at the hearing.

THE ALLEGATIONS

The allegations against Peter John Emery in the *Notice of Hearing*, (*Exhibit 1*) dated December 7, 2005 are as follows:

IT IS ALLEGED that Peter John Emery is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the *Ontario College of Teachers Act, 1996* (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 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 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); and
- (f) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1.) of the Act.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty. (ASF – Exhibit 2)*

The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. Peter John Emery (the "Member") is member of the Ontario College of Teachers. Attached hereto and marked as **Tab 1** is a copy of the Ontario College of Teachers Registered Member information of the Member.
2. At all material times the Member was employed by the Simcoe County District School Board as an occasional teacher.
3. On or about 13 May 2004, while acting in the capacity of a supply teacher at Barrie North Collegiate ("BNC"), the Member acted inappropriately and/or unprofessionally in certain interactions with students, including:
 - (a) during discussions with students about appropriate school attire, told students about an incident in a previous school involving a female student who was inappropriately attired and whose "boobs" were almost in his face;

- (b) spoke in inappropriate detail to students about female student attire, including thong underwear and tank tops and about tattoos on female students; and
- (c) told an inappropriate joke to students that involved the punch line “no sex”.

4. On or about 2 June 2004, the Member was suspended from the occasional teacher list of the Board, for a period of two weeks without pay, and was directed not to return to BNC until the fall of 2005.

5. On or about 23 November 2004, while acting in the capacity of a supply teacher at Orillia Collegiate Vocational Institute, specifically in a physical education class, the Member acted inappropriately and/or unprofessionally towards several female students in his class. The inappropriate actions of the Member included his touching their abdomens, knees or legs while they were performing sit-ups and other exercises in the weight room of the gymnasium, without their consent. In addition, the Member made inappropriate comments to several female students about their bodies.

6. The Member resigned from the Board on 1 December 2004, and has not taught since that time.

7. The Member has no intention of returning to teaching. Immediately following the completion of the Discipline Committee hearing into these matters, the Member will provide to the Registrar of the Ontario College of Teachers an Undertaking never to teach again and never to seek reinstatement or to apply for membership in the Ontario College of Teachers.

PLEA OF NO CONTEST

8. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 6 above (the “Admitted Facts”). The Member hereby acknowledges that his conduct as described in paragraphs 3 and 5 of the Admitted Facts, constitutes conduct that is disgraceful, dishonourable and unprofessional and pleads no contest to the allegations of professional misconduct against him being more particularly, breaches of Ontario Regulation 437/97 subsections 1(5), (7), (14), (15), (18) and (19).

9. The Member states that:

- (a) he understands fully the nature of the allegations that have been made against him;
- (b) he understands that by pleading no contest to the particulars as set out herein, he is waiving his right to require the College to prove the case against him and the right to have a hearing into those allegations;
- (c) he voluntarily decided to plead no contest ; and
- (d) he states that this plea of no contest was made voluntarily, unequivocally and with the benefit of independent legal counsel.

10. In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

11. In light of the plea of no contest and the agreement of the Member to provide an Undertaking to the Registrar of the Ontario College of Teachers never to teach again and never to seek reinstatement or to apply for membership in the Ontario College of Teachers, the Ontario College of Teachers and the Member jointly submit that the Member be permitted to resign his membership in the Ontario College of Teachers and his certificate will be cancelled.

12. The Member will immediately surrender to the Registrar his original Certificate of Qualification and Registration, or alternatively immediately provide an affidavit to the Registrar outlining the efforts he has undertaken to locate it.

13. The Ontario College of Teachers and the Member jointly submit that the finding and Order of the Committee be published in summary with the full name of the Member, in the official publication of the College, Professionally Speaking/Pour parler profession.

14. By this document the Member acknowledges his understanding that any agreement between the College and the Member 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 plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Peter John Emery

committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19).

REASONS FOR DECISION

The Committee accepts the evidence contained in the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty. (Exhibit 2)* The Member admits he acted inappropriately and/or unprofessionally in discussions with students, including discussions about female student attire and body parts and telling inappropriate jokes with a sexual innuendo. The Member was suspended for such behaviour and subsequent to the suspension the Member engaged in inappropriate touching of female students without their consent as well as making inappropriate comments to female students about their bodies. The Committee finds that this behaviour is professional misconduct as admitted by the Member.

PENALTY DECISION

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

- (a) the Member is permitted to resign his membership in the College effective immediately upon a finding of professional misconduct;
- (b) the Member shall surrender immediately his certificate of qualification and registration to the Registrar, whereupon it shall be cancelled; if the Member is unable to produce his certificate, he shall alternatively provide immediately an affidavit to the Registrar outlining the efforts he has undertaken to locate it;

- (c) the Member shall provide to the Registrar a written undertaking that he will never seek reinstatement of his certificate of qualification and registration; and
- (d) pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act*, the findings and order of the Committee shall be published in summary, with the Member's full name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee accepts the joint submission with respect to penalty for the following reasons:

- the Member has pleaded no contest to the admitted facts;
- the Member has agreed to resign his membership in the College;
- the Member's certificate of qualification and registration will be cancelled;
- the Member has undertaken not to seek reinstatement of his certificate;
- the Member has undertaken not to teach again; and
- the Member has agreed to publication of his name in the College's official publication.

Since the Member will no longer be a member of the teaching profession, the Committee is satisfied that the requirements of upholding the standards of the profession and protecting the public interest are met.

The Committee concluded that the public interest and the requirement for general and specific deterrence are served by the publication of the findings and the Member's name.

Dated: October 16, 2006

Jacques Tremblay
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Amin Saab
Member, Discipline Panel