

**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 Tom Goguen, a member of the Ontario College of Teachers.

PANEL: Brent Hamelin, Chair
 Anne Marie Levesque
 Hanno Weinberger

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
TOM GOGUEN	)	Tom Goguen,
(CERTIFICATE #195077)	)	was not present,
	)	nor was he represented
)	
	)	Johanna Braden,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: November 27, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 27, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated August 19, 2008, was served on Tom Goguen, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on September 17, 2008, to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 27, 2008. Tom Goguen was not in attendance at the hearing.

THE ALLEGATIONS

The *Notice of Hearing* sets out the following allegations:

IT IS ALLEGED that Tom Goguen is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the Ontario College of Teachers Act (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, 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 an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*, which provides as follows:

1. Tom Goguen (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 Registered Member Information respecting the Member.

2. At all material times the Member was employed by the Upper Grand District School Board (the “Board”) as a teacher at [XXX] (“the School”) in [XXX]. The Member was a [XXX] at the School.

3. During the 2006-2007 academic year a grade [XXX] female student (“the Student”) was a student at the School and was a member of the School’s [XXX].

4. During the 2006-2007 academic year the Member commenced and conducted a personal relationship with the Student, which included his:

(a) engaging in inappropriate telephone, electronic and written communications, which included the use of cellular phones and text messaging, with the Student;

(b) engaging in a sexual relationship with the Student.

5. The electronic and written communications referred to in paragraph 4(a) above included sexually explicit text messages as well as greeting cards containing sexual

innuendo. Attached and marked as **Exhibit “B”** is a transcript of some of the text messages sent from the Member to the Student in June 2007.

6. Attached and marked as **Exhibit “C”** are copies of two greeting cards sent by the Member to the Student.

7. The sexual relationship referred to in paragraph 4(b) above included the Member engaging in sexual intercourse with the Student at his home.

8. On or about 9 August 2007, the Member admitted to the principal of the school and a representative of the Board that he did have a sexual relationship with the Student.

9. The Member resigned from the Board on or about 14 August 2007.

PLEA OF NO CONTEST

10. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibits referred to in paragraphs 1 to 9 above.

11. The Member hereby acknowledges that the facts referred to in paragraph 4 above constitute professional misconduct and pleads no contest to these allegations of professional misconduct against him, being more particularly a breach of Ontario Regulation 437/97 1(5), (7), (14), (15), (18) and (19). The Member also pleads no contest to the allegation that he engaged in sexual abuse of a student or students of a nature defined in Sections 1 and 40(1.1) of the *Act*.

12. By this document the Member states that:

- (a) he understands fully the nature of the allegations against him;

- (b) he understands that by signing this document he is consenting to the evidence as set out in paragraphs 1 to 9 above, including the referenced exhibits, being presented to the Discipline Committee at the hearing of this matter;
- (c) he understands that by pleading no contest to the allegations, he is waiving the right to require the College to prove the case against him, and the right to have a full hearing on these issues; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and without the advice of legal counsel.

13. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of Procedure of the Discipline Committee under protection of the Evidence Act, R.S.O. 1990, chapter E. 23, for the purpose of this proceeding under the College of Teachers Act 1996, chapter 12, and for no other purpose. The Member's plea of no contest does not constitute an admission by the Member as to the facts or findings in any other civil, criminal or administrative proceeding.

14. In light of the uncontested 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

15. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:

- (a) directs the Registrar of the Ontario College of Teachers to revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar of the Ontario College of Teachers; and
- (b) directs that there be publication of the findings and Order of the Committee in summary form in the official publication of the College, Professionally Speaking/Pour parler profession. The parties have not agreed upon whether the Member's full name will be published in Professionally Speaking/Pour parler profession and submissions will be made to the Committee on that issue.

16. 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 Tom Goguen 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), 1(19) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1.) of the Act as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 9 of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). He acknowledges that the admitted facts referred to in paragraph 4 constitute professional misconduct and pleaded no contest to the allegations of professional misconduct against him, specifically breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the Act. The Committee accepted the Member's plea of no contest and the facts in the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

The Committee determined that the Member's conduct constituted professional misconduct. The Member acted in an unprofessional manner by engaging in inappropriate telephone, electronic and written communications including cellular phones and text messaging with the student. The text messages were sexually explicit. Greeting cards were sent to the student by the Member which contained sexual innuendo. The Member engaged in a sexual relationship with the student, including

sexual intercourse with the student at his home. This conduct clearly breaches Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19) and is sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the Act.

Submissions on Publication

After reviewing the Agreed Statement of Facts, College Counsel submitted that there should be publication with the name of the Member. Publication with the name provides the transparency and openness demanded by the public. Publication in these types of situations is necessary in order to provide the appropriate deterrence and to protect the public. Counsel indicated that because there were no criminal proceedings against the Member in this matter, the Member does not face having his name placed on a Sex Offender Registry or having to provide a DNA sample. Because of these facts, publication of the name of the Member is necessary to ensure that the public is protected and made aware of the serious nature of Member's misconduct.

The Committee received and considered a letter from the Member (Exhibit 4) dated November 26, 2008 in which the Member requested his name not be published to reduce the embarrassment to the student involved, her family as well as his family and himself. The Member was concerned with publication of his name because he lives in a small community and continues to have acquaintances who are teachers whose sons and daughters are friends with his daughter.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar of the Ontario College of Teachers; and
2. 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 name of the Member in the official publication of the College, *Professionally Speaking/Pour parler profession.*

REASONS FOR PENALTY DECISION

The Committee finds the Member initiated an inappropriate and unprofessional relationship with the student while she was under his care and supervision. The Member engaged in inappropriate telephone, electronic and written communications with the student. These communications were sexually explicit and contained sexual innuendo. The Member engaged in a sexual relationship with the student, including sexual intercourse with the student at his home. These acts by the Member, with the student, represent the most egregious breach of trust between a Member and a student under their care.

The Committee finds the Member's conduct is reprehensible and unbecoming a member of the profession. The Member abused the authority and trust vested in him in his role as a teacher for his own sexual gratification, without regard to the well being of the student. The conduct of the Member was unacceptable and in conflict with the duty of a teacher to protect, not abuse students. The Member has forfeited the privilege of holding a teaching

certificate and being a member of the teaching profession. Revocation is the appropriate penalty for misconduct of this severity.

The Committee orders publication of the finding and order with the name of the Member. The Committee considered the Member's request to withhold publication of his name. The Member alleged that publication of his name would cause embarrassment to the student and her family. However there was no evidence from either the student or her family to support this contention. The Committee determined that publication with the Member's name is necessary in order to provide the general deterrence to the teaching profession and specific deterrence to the Member. As the Member's actions comprised the most serious breach of trust, publication with name, in these circumstances is warranted and appropriate.

The Committee is satisfied that the penalty is appropriate in the circumstances and serves to protect the public interest.

Date: November 27, 2008

Brent Hamelin
Chair, Discipline Panel

Anne Marie Levesque
Member, Discipline Panel

Hanno Weinberger
Member, Discipline Panel