

A *Notice of Hearing*, dated January 12, 2009, was served on Dany Gilbert Guimond requesting his attendance before the Discipline Committee of the Ontario College of Teachers on January 28, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for June 8, 2010.

Mr. Guimond was not in attendance, but was represented by his legal counsel and by his union representative.

THE ALLEGATIONS

The allegations against Dany Gilbert Guimond in the *Notice of Hearing* (Exhibit 1), dated January 12, 2009, are as follows:

IT IS ALLEGED that Mr. Guimond 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 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).

At the hearing on June 8, 2010, Counsel for the College withdrew the allegations of professional misconduct contained in paragraph (c) above, being alleged breaches of Ontario Regulation 437/97, subsections 1(14) and 1(15).

STATEMENT OF UNCONTESTED FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced a *Statement of Uncontested Facts, Plea of No Contest and Joint Submission on Penalty* (Exhibit 2), which provides as follows:

1. Dany Guimond is a member of the College in good standing (Certificate #201485).
2. At all material times, the Member was employed by the Conseil scolaire de district catholique Centre-Sud (the “Board”) as a teacher at [XXX].
3. During the same period, A. was a student at [XXX] and a secondary-school student in some of the classes [XXX].
4. During the 2005-2006 academic year, the Member acted inappropriately and contravened the standards of the teaching profession, in that:
 - a. He exchanged email of an inappropriate personal nature with A.;

- b. He conducted inappropriate sexual conversations and engaged in inappropriate sexual actions with A.;
- c. He had a relationship with A., a student, that did not respect the legislated boundaries of a student-teacher relationship;
- d. He drove A. home in his car after extracurricular activities or after class;
- e. He spent time alone with A. in his office at the school and outside school premises;
- f. He behaved in a manner that affected the student psychologically and/or emotionally.

PLEA OF NO CONTEST

- 5. The Member acknowledges that he is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act* (the “Act”), in that he admits that:
 - a. he failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97;
 - b. he abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
 - c. he committed acts or omissions 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); and

- d. he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).
6. In light of the aforementioned facts and the plea of guilty, the College and the Member submit that the Discipline Committee find that the actions the Member admits to committing with respect to this complaint constitute professional misconduct.
7. The Member admits that he is guilty of the aforementioned actions and understands that in admitting to them, he is waiving the right to require the College to prove the case against him and the right to a contested hearing.

JOINT SUBMISSION ON PENALTY

8. The parties jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee directs:
 - a. the Registrar to revoke the Member's Certificate of Qualification and Registration and directs that the Member undertake to make no application for the reinstatement of his Certificate for a period of five years.
 - b. that there be publication of the findings and Order of the Committee, including the name of the Member, in *Professionally Speaking/Pour parler profession*.

9. 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, Statement of Uncontested Facts* and *Joint Submission on Penalty*, and the submissions made by Counsel for the College and Counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Dany Gilbert Guimond is guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(18 - disgraceful, dishonourable or unprofessional) and 1(19), as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Committee put forward a number of questions concerning the discrepancies between the particulars of the allegations in the *Notice of Hearing* and the facts as outlined in the *Statement of Uncontested Facts*. The Committee was concerned that the particulars in the *Notice of Hearing* were primarily sexual and explicit in nature, whereas the facts as outlined in the *Statement of Uncontested Facts* only partially reflected this fact.

In response, Counsel for the College called attention to the severity of the penalty, which, he contended, effectively protected the public interest. Counsel explained that the Member was aware of the precise nature of his actions. Furthermore, no criminal investigation was conducted. The *Statement of Uncontested Facts*, which is the product of negotiation, avoids a hearing that

would be costly in terms of time and resources, and circumvents the need for the victim to testify.

Counsel for the Member added that the Member does not admit all of the facts outlined in the allegations, but he admits to engaging in an inappropriate relationship with a student that did not respect the boundaries of a student-teacher relationship and is prepared to undertake not to teach.

In response to the explanations provided by both parties, the ensuing discussions and the clarifications added to the *Statement of Uncontested Facts*, the Committee accepted the *Statement of Uncontested Facts, Plea of No Contest and Joint Submission on Penalty*. The additional clarifications confirm the sexual nature of the facts admitted by the Member, which was the crux of the Committee's concerns. The link between the admitted facts and the severity of the penalty has now been substantiated.

The Committee therefore accepted the Member's plea of no contest under the provisions of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(18) and 1(19).

The fact that the Member conducted inappropriate sexual conversations and engaged in inappropriate sexual actions with a student, in addition to other exchanges as set out in paragraphs 4 (a), (c), (d) and (e) of the *Statement of Uncontested Facts*, confirms the professional misconduct as defined in Ontario Regulation 437/97, subsection 1(7). By this conduct, the Member failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97, committed acts or omissions that having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional,

contrary to subsection 1(18) of Ontario Regulation 437/97 and engaged in conduct unbecoming a member, contrary to subsection 1(19) of Ontario Regulation 437/97. The Member further acknowledged the psychological and/or emotional impact of his conduct on the student.

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order:

1. The Discipline Committee directs the College Registrar to revoke the Member's Certificate of Qualification and Registration;
2. In accordance with subsection 30 (7) of the *Act*, the Committee directs that the Member make no application for the reinstatement of his Certificate for a period of at least five years from the date of this Order;
3. In accordance with paragraph 3 of subsection 30 (5) of the *Act*, the Discipline Committee directs that a summary of the finding and Order of the Committee be published, including the name of the Member, in *Professionally Speaking/Pour parler profession*, the official publication of the College.

REASONS FOR PENALTY DECISION

The Committee is satisfied that the proposed penalty is appropriate in the circumstances and serves and protects the public interest. The revocation, and the undertaking that the Member will not apply for the reinstatement of his Certificate for a period of at least five years, will provide a specific deterrent to the Member and protects the public interest by excluding the Member from the school environment. The severity of the penalty effectively conveys the refusal of the teaching profession to tolerate acts of this kind by one of its members.

Publication of the Member's name with a summary in *Professionally Speaking/Pour parler profession* will serve as a general deterrent to the profession, because it sends a clear message that such conduct will result in severe penalties. The publication of the Member's name satisfies the need for transparency and the need to make the public aware that such conduct on the part of its members will not be tolerated.

June 8, 2010

Gabrielle Blais
Chair, Discipline Panel

Dean Favero, OCT
Member, Discipline Panel

Jacques Tremblay, OCT
Member, Discipline Panel