

**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 Patrick Elliot Hall, a member of the Ontario College of Teachers.

PANEL: Dean Favero, Chair
 Gabrielle Blais
 Rosemary Fontaine

BETWEEN:)	
)	
	)	Awanish Sinha,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
)	
	)	Simon Blackstone,
	)	Green & Chercover,
PATRICK ELLIOT HALL	)	for Patrick Elliot Hall
(CERTIFICATE #430572))	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: June 11, 2009

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on June 11, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated January 16, 2009 was served on Patrick Elliot Hall, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on February 10, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for June 11, 2009.

Patrick Elliot Hall attended the hearing via teleconference.

THE ALLEGATIONS

The allegations against Patrick Elliot Hall in the *Notice of Hearing*, (*Exhibit 1*) dated January 16, 2009, are as follows:

IT IS ALLEGED that Patrick Elliot Hall is guilty of professional misconduct as defined in section 30(2) 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 failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario 1990, chapter E2 or the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and 1(15);
- (c) 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); and
- (d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on June 11, 2009, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (a), (b), and (d) above, namely that the Member breached Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), and 1(19). The Committee agrees that these allegations shall be withdrawn.

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:

AGREED STATEMENT OF FACTS

1. Patrick Elliot Hall (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 Peel District School Board (the “Board”) and taught at John Fraser Secondary School in Mississauga, Ontario.

3. In late November 2007, the Member made inappropriate and unprofessional comments in the presence of a female student teacher on two separate occasions, when he referred to a personal bathroom visit made by him to one of the school’s washrooms, and when he whispered a comment to her about the manner of dress of one of his female students who was applying lipstick at the end of a class period. These comments resulted in discomfort for the student teacher.

4. The Member resigned from his employment with the Board effective August 31, 2008.

PLEA OF NO CONTEST

5. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibit referred to in paragraphs 1 to 4 above.

6. The Member hereby acknowledges that the uncontested facts referred to in paragraph 3 above constitute conduct which is unprofessional and pleads no contest to the allegations against him, being more particularly a breach of Ontario Regulation 437/97, sections 1(18) - unprofessional.

7. The Member states that:

- (a) he understands fully the nature of the allegations of professional misconduct against him;
- (b) he understands that by signing this document he is consenting to the evidence as set out in paragraphs 1 to 4 above, including the referenced exhibit, 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 with the advice of legal counsel.

8. 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 *Ontario 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.

9. 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

10. 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) requires the Member to appear before the Committee to be reprimanded and that the fact of the reprimand be recorded on the public register of the Ontario College of Teachers;
- (b) directs the Registrar of the Ontario College of Teachers to impose the following terms, conditions or limitations on the Member's Certificate of Qualification and Registration, the fact of such terms and conditions and limitations to be recorded on the Register of the College until such time as they are fulfilled:
 - (i) the Member shall advise the Registrar in writing, at least seven (7) days prior to his return to any teaching duties of the date of such return, the name of his employer, and the nature of said employment, and will ensure that he has complied with the requirements at (ii) and (iii) below;

- (ii) prior to any return to a teaching position for which a Certificate of Qualification and Registration is required, the Member shall enrol in and successfully complete at his own expense a course pre-approved by the Registrar, regarding appropriate boundaries and boundary violation issues; and
 - (iii) within thirty (30) days of his completion of the course referred to at paragraph (ii) above, the Member shall provide evidence to the Registrar in writing, of his successful completion of same;
- (c) 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 whether or not the publication shall include the name of the Member, and submissions will be made to the Committee on this issue.

11. 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.

SUBMISSIONS WITH RESPECT TO PUBLICATION

College Counsel took no position with respect to publication of the name of the Member.

Counsel for the Member requested that the name of the Member not be published. He submitted that the nature of the misconduct was isolated and not severe. He further submitted that the course work provided a specific deterrent to the Member and that publication, in summary, without the Member's name would serve as a general deterrent to the profession. Counsel further submitted that a decision not to publish the Member's name would be in keeping with other decisions of the College in cases involving conduct of a less severe nature. Two examples of such cases were provided to the Committee for consideration.

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 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 Patrick Elliot Hall committed acts of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 1 (18) - unprofessional 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 4 (the "admitted facts") of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). He acknowledged that the admitted facts referred to in paragraph 3 of Exhibit 2 constitute conduct which is unprofessional and pleaded no contest to this allegation. The Committee accepted the Member's plea of no

contest and the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

In late November 2007, the Member made inappropriate and unprofessional comments in the presence of a female student teacher on two separate occasions, when he referred to a personal bathroom visit made by him to one of the school's washrooms, and when he whispered a comment to her about the manner of dress of one of his female students who was applying lipstick at the end of a class period. These comments resulted in discomfort for the student teacher. This conduct is a breach of Ontario Regulation 437/97, subsection 1(18) – unprofessional.

PENALTY DECISION

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

- (a) the Member is required to appear before the Committee to be reprimanded and the fact of the reprimand is to be recorded on the public register of the Ontario College of Teachers;
- (b) the Registrar of the Ontario College of Teachers is directed to impose the following terms, conditions or limitations on the Member's Certificate of Qualification and Registration, the fact of such terms and conditions and limitations to be recorded on the Register of the College until such time as they are fulfilled:

- (i) the Member shall advise the Registrar in writing, at least seven (7) days prior to his return to any teaching duties of the date of such return, the name of his employer, and the nature of said employment, and will ensure that he has complied with the requirements at (ii) and (iii) below;
- (ii) prior to any return to a teaching position for which a Certificate of Qualification and Registration is required, the Member shall enrol in and successfully complete at his own expense a course pre-approved by the Registrar, regarding appropriate boundaries and boundary violation issues; and
- (iii) within thirty (30) days of his completion of the course referred to at paragraph (ii) above, the Member shall provide evidence to the Registrar in writing, of his successful completion of same.

(c) 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, without the name of the Member in the official publication of the College, Professionally Speaking/Pour parler profession.

REASONS FOR PENALTY DECISION

The Committee determined that the reprimand and the course work will serve as a specific deterrent to the Member. Publication of the findings in summary will serve as a general deterrent to the profession. In addition, given the nature of the misconduct, there

was no need for publication of the Member's name in order to heighten specific and general deterrence.

The Committee concludes that the decision is in the public interest. The openness of the proceedings and publication of the findings in summary is sufficient to instill public confidence in the transparency of the process.

Date: June 11, 2009

Dean Favero
Chair, Discipline Panel

Gabrielle Blais
Member, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel