

**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 James Geoffrey Hamilton, OCT, a member of the Ontario College of Teachers.

PANEL:            Brent Hamelin, Chair  
                      Mel Greif  
                      Darlene Mead

BETWEEN:	)	
	)	Eli Mogil,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -	)	
	)	Joshua Phillips,
	)	Green & Chercover,
JAMES GEOFFREY HAMILTON	)	for James Geoffrey Hamilton
(CERTIFICATE # 156927)	)	
	)	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
	)	
	)	Heard: October 15, 2009

**REASONS FOR DECISION, DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 15, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated August 19, 2009, was served on James Geoffrey Hamilton, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on September 21, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for October 15, 2009. James Geoffrey Hamilton was in attendance.

## **THE ALLEGATIONS**

The allegations against James Geoffrey Hamilton in the *Notice of Hearing*, (Exhibit 1) dated August 19, 2009 are as follows:

**IT IS ALLEGED** that James Geoffrey Hamilton 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 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 *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made thereunder, contrary to Ontario Regulation 437/97, subsection 1(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); and
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the conclusion of the hearing on October 15 2009, College Counsel sought to withdraw the allegations of professional misconduct contained in paragraphs (b), (c) and (d) above, being alleged breaches of Ontario Regulation 437/97, subsections 1(7), 1(15), and 1(18). The Committee agrees that these allegations shall be withdrawn.

### **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 (SUF– Exhibit 2)* which provides as follows:

1. James Geoffrey Hamilton (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 Simcoe County District School Board (the “Board”) as a high school teacher. The Member was assigned to Barrie North Collegiate Institute (the “School”).
3. During the 2005-2006 to 2007-2008 academic years, on multiple occasions, the Member engaged in verbal and physical interactions with several female students that were inappropriate and unprofessional in that they were capable of a sexually suggestive interpretation despite the fact that none was intended by the Member and in that they made the students very uncomfortable to the point that the Member was removed from the classroom.

4. While the parties have not been able to reach an agreement on the details of many of the specific incidents described in paragraph 3 above, some of the incidents include:

- (a) On one occasion in November 2006, the Member was returning to his preparation room from the main office of the school. As he approached a set of doors, one door flew open and a female student came through just as the Member was reaching to open the door. Both the student and the Member collided and said “sorry”. The Member then stated, “You are probably used to men throwing themselves at you”. He has advised that he did so as a way of injecting humour into the situation.
- (b) On one occasion during the second semester of the 2005-2006 academic year, a female student was not spending class time accomplishing her work and was using a mirror in class to apparently check her makeup and/or hair. The Member remarked to her to the effect, “You look good” or, “You are good looking”, and he went on to suggest that she should focus on her studies not her appearance.
- (c) On one occasion in September 2007, the Member was teaching an enzyme lab in his biology class. One of the lessons for that class in the Homeostasis unit, which he taught in one of the two prior classes, focussed on individuals being characterized as “hot” or “cold” depending on the ability of their blood circulation to transfer heat. During the enzyme lab, the Member commented to a female student who was handling a hot test tube, that “only a hot person could handle that test tube.” The Member has advised the comment was made in the context of

blood circulation with reference to the course material and the student's ability to handle the test tube.

- (d) On one occasion in October 2007, a female student arrived late to a meeting regarding a bulletin board project for her class. The Member brought up the fact that the student was not punctual which seemed to annoy her. The Member gently poked the student once in the abdomen in what he advises was an effort to lighten her mood and create some humour with the group of students present. That incident occurred in front of the other students in the School's main hallway.
- (e) On one occasion, while he was in the lab, the Member had a conversation with a female student he knew was involved in track and field at the School. The Member tried to guess what events she participated in and guessed incorrectly. He then told her that he was a former national team track and field coach and stated words to the effect, "You have an athletic build".
- (f) On one occasion in November 2007, a female student wrote her name in very large letters, on the blackboard in order to be temporarily excused from the class. The Member erased the first letter of the student's name while indicating to her that she now had the same name as his puppy. When the student sat down and became unresponsive, the Member then stated words to the effect, "I don't know what is wrong between us right now or what I can do to fix it. If you were a puppy, you would roll over and I could tickle your tummy".

- (g) On one occasion, the Member wished to talk to a small group of students who were speaking with a female student. That student had her back to the Member and did not see him waiting and so continued in her conversation. The Member leaned forward over her shoulder so that she could see him, which startled the student and made her feel uncomfortable.

### **PLEA OF NO CONTEST**

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

6. The Member hereby acknowledges that the Uncontested Facts referred to in paragraphs 3 and 4 above constitute conduct which falls below the standards of the teaching profession and is conduct unbecoming of a Member, being more particularly a breach of Ontario Regulation 437/97 1(19).

7. 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 the Uncontested Facts being presented to the Discipline Committee;
- (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 hearing;

- (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 *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) directs that the Member appear before the Committee, immediately following the hearing of this matter, to receive counselling, and the fact of the counselling is to be recorded on the Register of the Ontario College of Teachers for a period of one year from the date of the Discipline Committee's decision;

- (b) directs the Registrar of the Ontario College of Teachers to impose a term, condition or limitation (“term”) on the Member’s Certificate of Qualification and Registration that the Member is to complete, at his own expense, within three (3) months from the date of an Order by the Discipline Committee, a course of instruction, pre-approved by the Registrar, regarding appropriate boundaries and boundary violation issues, and that the Member shall deliver directly to the Registrar, within thirty (30) days of completion of that course, a written certificate from the course provider stating the Member has successfully completed the course. The fact of such term to be recorded on the Register of the College until such time as it is fulfilled.
- (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* without the name of the Member.

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.

## **DECISION**

Having examined the Exhibits filed, and based on the plea of no contest, the *Statement of Uncontested 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 James Geoffrey Hamilton committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) and 1(19).

## **REASONS FOR DECISION**

The Committee accepted the Member's plea of no contest and the facts as outlined in the *Statement of Uncontested Facts*.

The Member did not contest the truth of the facts referred to in paragraphs 3 and 4 of the *Statement of Uncontested Fact* and that these facts constitute conduct which falls below the standards of the teaching profession and is conduct unbecoming a Member, being more particularly, breaches of Ontario Regulation 437/97, subsections 1(5) and 1(19) and pleaded no contest to these allegations of professional misconduct.

The Member engaged in inappropriate physical and verbal interactions with several female students in the 2005-2006 and the 2007-2008 academic years. These comments and interactions were capable of a sexually suggestive interpretation and made students very uncomfortable to the point where the Member was removed from the classroom.

For example, after colliding with a student in the hallway, the Member stated "you're probably used to men throwing themselves at you". At another time the Member remarked to a different female student "you look good" or "you are good looking". The Member poked one student in the abdomen in what he advised was an effort to lighten her mood. During another interaction, when a student became unresponsive, the Member

stated words to the effect “I don’t know what is wrong between us right now or what I can do to fix it. If you were a puppy, you would roll over and I could tickle your tummy.”

The Committee determined that the Member failed to maintain the standards of the profession by his use of inappropriate commentary and forms of address as well as his physical interaction with students and in so doing engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97 subsections 1(5) and 1(19).

### **PENALTY DECISION**

The Committee makes the following order as to penalty:

1. The Member is required to appear before the Committee to be counselled, with the fact of the counselling to be recorded on the Register of the College for a period of one year from October 15, 2009;
2. The Registrar is directed to impose the following term, condition or limitation (“term”) on the Member’s Certificate of Qualification and Registration, the fact of such term to be recorded on the Register of the College until such time as it is fulfilled:
  - (i) the Member shall complete, at his own expense, within three (3) months from October 15, 2009, a course of instruction pre-approved by the Registrar, regarding appropriate boundaries and boundary violation issues;

(ii) the Member shall deliver directly to the Registrar proof of successful completion of the course in (i) above within thirty (30) days of the completion of the course.

3. 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 counselling of the Member by his peers in respect to his inappropriate conduct serves to reinforce the necessity to maintain a professional manner and boundaries with students at all times. The fact that counselling of the Member took place and will be recorded on the Register serves as a specific deterrent to the Member.

The Committee determined that the course of instruction regarding appropriate boundaries and boundary violation issues will assist the Member in addressing the issues which have given rise to his misconduct and help him to understand the acceptable limits of student/teacher interaction. This will also assure the public that the issues which gave rise to the misconduct are being addressed. The penalty informs the public that the College of Teachers does not take this type of misconduct lightly and deals appropriately with matters brought to its attention.

Publication of the findings and order of the Committee, in summary, without the name of the Member, in *Professionally Speaking/Pour parler profession* provides a general deterrent to the profession, instructs the profession, and serves the public interest.

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

Date: October 15, 2009

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Brent Hamelin, OCT  
Chair, Discipline Panel

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Mel Greif  
Member, Discipline Panel

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Darlene Mead, OCT  
Member, Discipline Panel