

**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  
Kenneth Matthew Hammond, a member of the Ontario College of  
Teachers.

PANEL:                      Rosemary Fontaine, Chair  
   Janet Cornwall  
   Ted Coulson

BETWEEN:	)	
	)	
ONTARIO COLLEGE OF TEACHERS	)	Nadine Carpenter,
	)	Dispute Resolutions Administrator,
	)	for Ontario College of Teachers
- and -	)	
	)	
KENNETH MATTHEW HAMMOND	)	Melvyn Green,
(CERTIFICATE #195998)	)	Sack, Goldblatt Mitchell,
	)	for Kenneth Matthew Hammond
	)	
	)	Paul Le Vay, Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: May 5, 2004

**REASONS FOR DECISION, DECISION AND ORDER(S)**

This matter came on for hearing before a panel of the Discipline Committee on May 5,  
2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing* dated March 2, 2004 was served on Kenneth Matthew Hammond, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 5, 2004 to hold a hearing, and specifying the charges.

Kenneth Matthew Hammond was in attendance at the hearing.

### The Allegations

The allegations in the *Notice of Hearing* dated March 2, 2004 are as follows:

**IT IS ALLEGED** that Kenneth Matthew Hammond is guilty of professional misconduct as defined in subsection 30(2) of the Act in that:

- (a) he failed to comply with the *Ontario College of Teachers Act, 1996*, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14); and
- (b) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

### **PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Kenneth Matthew Hammond (the “Member”) is a member of the Ontario College Teachers (Registry Number 195998).
2. At all material times, the Member was employed by the Hamilton-Wentworth District School Board (the “Board”) as a teacher at Hillsdale Public School (“Hillsdale”).
3. Although not amounting to abusing a student as defined in section 1(7) of the Professional Misconduct Regulation 437/97 under the *Ontario College of Teachers Act, 1996*, between the dates of September 1, 1994 to June 30, 1995, the Member, a teacher

at Hillsdale, acted in an inappropriate and unprofessional manner in that he committed boundary infringements with [■] and [■], two female students under 14 years of age.

#### Publication Ban

On May 5, 2004, the Committee made an order that there be no publication of any information that may disclose the identity of the students involved in this matter.

#### Member's Plea

The Member Kenneth Matthew Hammond admits that the matters referred to in paragraph 3 of the *Notice of Hearing* constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (4) and 1(19) of the Act, as set out in the *Notice of Hearing* dated March 2, 2004.

#### Memorandum of Agreement

Counsel for the College advised the Committee that subject to ratification by the Committee, agreement had been reached on the facts and introduced a *Memorandum of Agreement (MOA)*, which provides as follows:

The parties agree to resolve the matter as follows:

1. By this document, the Member pleads guilty to professional misconduct as alleged in the *Notice of Hearing*, issued on March 2, 2004, and marked as Exhibit 1, and in so doing, accepts as true the particulars of the allegations set out therein. The Member

admits that he engaged in the conduct described in the *Notice of Hearing* and that such conduct amounts to professional misconduct as alleged.

2. The Member agrees that he voluntarily admitted to the allegations contained in the *Notice of Hearing*.
3. The Member understands the nature of the allegations contained in the *Notice of Hearing* and understands that by admitting to those allegations, he is waiving the right to require the College to prove the case against him and the right to a hearing.
4. The parties agree and understand that the terms of this *MOA* constitute a proposed settlement of this matter and that the terms are subject to ratification by the Discipline Committee of the College. Accordingly, this *MOA* is not considered final and binding on the parties until such time as it is ratified by the Discipline Committee.
5. The parties agree and undertake that if the Discipline Committee ratifies this *MOA*, there shall be no appeal, by either party, to any forum of the College.
6. The parties agree and undertake to take no further action with respect to the complaint, provided that the terms of this *MOA* are complied with.
7. The parties acknowledge that the Member has been instructed by a practitioner, approved by the Registrar, regarding maintaining appropriate boundaries in student-teacher relations.
8. The parties acknowledge that the Registrar of the College has received a report from the practitioner indicating that the Member is able to fulfill his duties as defined by section 264 of the *Education Act*.

9. The Member agrees and understands that once this *MOA* is ratified by the Discipline Committee, the Discipline Committee will find him guilty of professional misconduct and pursuant to subsection 30(5) of the *Ontario College of Teachers Act, 1996*, will immediately reprimand the Member, in person.
  
10. The Member agrees and understands that the Public Register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, will include the following notation:  
  
On May 5, 2004, the Discipline Committee found the Member guilty of professional misconduct and reprimanded the Member.
  
11. The Member agrees and understands that the College will publish his name with a summary of the complaint and its resolution as contained in this *MOA*. Such publication will be made in the College's official publication, *Professionally Speaking/Pour parler profession*, on the College website, and/or in such other manner as the Registrar and Chief Executive Officer deems appropriate.
  
12. The Member agrees and understands that the College will maintain a copy of the Decision of the Discipline Committee, including this *MOA*, in the College's Margaret Wilson Library. The Decision will be available for review by the public.
  
13. Pursuant to section 43.4 of the *Ontario College of Teachers Act, 1996*, the Member agrees and understands that the College will provide the Member's employer, the Hamilton-Wentworth District School Board, with the Discipline Committee's Decision and Reasons, including this *MOA*.
  
14. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a copy of this *MOA* and it will be

marked as an Exhibit at the hearing and will, together with the Notice of Hearing, constitute the evidence against the Member and the evidence upon which the guilty plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.

15. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with a summary of the matter including the allegations contained in the *Notice of Hearing*.

16. The parties agree and understand that if any phrase or paragraph of this *MOA* is deemed null and void, the *MOA* shall be read as though the phrase or paragraph was stricken from the *MOA* and the amended *MOA* shall remain in force and effect.

17. The Member agrees that there have been no oral or written representations made by the College as an inducement or threat to enter into this *MOA*.

18. The Member agrees and understands that:

(a) if the Discipline Committee requests any modifications to this *MOA*, the Dispute Resolutions Administrator, will consult the parties as to whether the modifications are acceptable. If the parties accept the modifications, they will sign and date the revised *MOA* and return it to the College, within ten business days from the date of the discussion with the Dispute Resolutions Administrator. The revised *MOA* is considered final and binding once the Discipline Committee has ratified it; and

(b) if the Discipline Committee does not ratify the *MOA*, or the parties do not accept all of the modifications, the complaint will proceed through a hearing at the College and will be considered by another panel of the Discipline Committee without prejudice. The second panel of the Discipline Committee will not be

provided with nor will it consider this MOA.

### Decision

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, the guilty plea therein, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Kenneth Matthew Hammond committed acts of professional misconduct as alleged, being more particularly a breach of Ontario Regulation 437/97, subsections 1(14) and 1(19).

### Penalty

The *Memorandum of Agreement* contains a joint submission as to penalty as set out above.

### Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Memorandum of Agreement* and accordingly requires that the Member, Kenneth Matthew Hammond, appear before the Committee to be reprimanded and the fact of the reprimand will be recorded on the Register of the College for a period of 3 years.

The Committee further orders that pursuant to Section 30 (5) (iii) of the *Ontario College of Teachers Act, 1996*, the findings and order of the Committee be published in summary, with the full name of the Member, in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession*.

Reasons for Decision and Order

Kenneth Matthew Hammond has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions. He has successfully completed a course of instruction regarding maintaining appropriate boundaries in student/teacher relations.

The Committee concludes that the penalty is reasonable and serves and protects the public interest.

Date: May 5, 2004

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Rosemary Fontaine  
Chair, Discipline Panel

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Janet Cornwall  
Member, Discipline Panel

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Ted Coulson  
Member, Discipline Panel