

**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 Dennis Stewart Henderson, a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair  
Don Cattani  
Eileen Walker

BETWEEN:	)	
	)	Heather Meredith,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -	)	
	)	
DENNIS STEWART HENDERSON	)	Joshua Phillips,
(CERTIFICATE #249953)	)	Green & Cherverover,
	)	for Dennis Stewart Henderson
	)	
	)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: September 27, 2005

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

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on September 27, 2005 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated May 31, 2004 was served on Dennis Stewart Henderson, requesting attendance before the Discipline Committee of the Ontario College of Teachers on June 9, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for September 27, 2005.

Dennis Stewart Henderson was in attendance at the hearing.

### **The Allegations**

The allegations against Dennis Stewart Henderson in the *Notice of Hearing*, (*Exhibit 1*) dated May 31, 2004 are as follows:

**IT IS ALLEGED** that Dennis Stewart Henderson 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), and/or is incompetent as defined in section 30(3) of 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 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);
- (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; and

- (g) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's Certificate should be made subject to terms, conditions or limitations.

**Agreed Statement of Facts**

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty. (ASF – Exhibit 2)*

The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. Dennis Stewart Henderson (the "Member") is a Member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Registered Member Information of the Member. (*ASF-Exhibit 2, Tab A*)
2. At all material times the Member was employed as a teacher by the Wellington County Board of Education which is the predecessor to the Upper Grand District School Board (the "Board") at [REDACTED] (the "School") in [REDACTED].
3. During portions of the 1989-1990 and 1990-1991 school years, [REDACTED] whose date of birth is [REDACTED], was a female student [REDACTED] at the School.
4. During the school term of February to June 1990, [REDACTED] became infatuated with the Member. She visited his workshop at lunchtime and after school, sent him letters, called him at home and took pieces of his clothing from his classroom.

5. The Member spoke to a number of teachers in the school, including his immediate supervisor and the guidance counsellor, about his concerns regarding [■]'s behaviour. The Member was advised that [■] was receiving counselling for emotional problems.
6. At that time, the Member received no instructions as to how to deal with infatuated students. The only instructions he received were to discourage false complaints; to be never alone with a female student and to keep his classroom door open and lights on. The Member was unaware of any Board policies or procedures or professional standards at that time, which addressed such matters.
7. The Member acknowledges that between the approximate dates of July 1990 and May 1991, he acted inappropriately in his dealings with [■], whom he ought to have known was becoming infatuated with him. More specifically he:
  - (a) engaged in personal discussions with [■];
  - (b) took no steps to dissuade her from sending him romantic cards and letters which became sexually explicit as time progressed, and failed to make a complete report to the School's principal that [■] was sending him romantic cards and letters;
  - (c) engaged in telephone conversations with [■], made by [■] to his residence, sometimes late at night;
  - (d) failed to report to the school's principal that [■] called him at home;
  - (e) failed to report [■] to the school's principal when she requested that he divulge to her questions which were going to be asked on a class examination; and
  - (f) failed to report [■] to the school's principal or to the police when she stole personal items from his desk, school closet and motor vehicle.

8. During portions of the 1989-1990 and 1990-1991 school years, [REDACTED] whose date of birth is [REDACTED], was a female student [REDACTED] at the School.
9. [REDACTED], a close friend of [REDACTED], was also enrolled in the [REDACTED] course in 1989-90. In the spring of 1991, when [REDACTED] was no longer his student, she began to write letters to the Member and to speak with him about family problems.
10. The Member acknowledges that between the approximate dates of July 1990 and May 1991, he acted inappropriately in his dealings with [REDACTED], whom he ought to have known was becoming infatuated with him. More specifically, he:
  - (a) sent her a Valentine's Day card in February 1991;
  - (b) engaged in personal conversations with her, which included discussions about problems she was encountering with her parents and boyfriend; and
  - (c) met with [REDACTED] in a restaurant and took her for a ride in his car.
11. In June 1991, the Member was charged with three counts of sexual exploitation pursuant to Section 153(1) of the *Criminal Code*. Two of the alleged incidents involved [REDACTED] and the other charge involved [REDACTED]. The Member was shocked by the charges and vehemently denied having a sexual relationship with either [REDACTED] or [REDACTED].
12. On June 10, 1992, Mr. Justice Smith of the Ontario Court (General Division) acquitted the Member of all charges. Attached hereto is a transcript of the Reasons for Judgment of Mr. Justice Smith. In his Reasons for Judgment, Mr. Justice Smith stated that the issue before the Court was one of credibility. He found that the evidence of [REDACTED] was, "so vague and so lacking in detail on its own that I would be loath to make a finding of guilt on that evidence." He further stated that his review of

the evidence led him to conclude that it was, “impossible for the accused to have committed the offences described in counts two and three”, and that there was contradictory evidence with respect to count one. (*ASF - Exhibit 2, Tab B*)

13. Despite his acquittal, the Member voluntarily resigned from his position knowing that the notoriety of the case would make it impossible for him to continue teaching in [■]. At a meeting on June 30, 1992, the Board accepted the Member’s resignation and provided him with a one-time compensatory payment.
14. Between 1992 and 1994, the Member trained to become a real estate agent and sold real estate in the Kitchener-Waterloo area from 1992 to 1994.
15. In 1994, the Member applied for a position as an Auto Mechanics teacher with the Upper Canada District School Board in Cornwall. The Member advised the principal of the criminal charges that had been laid against him and his acquittal. With the knowledge of this history, the principal offered the Member a job.
16. The Member has been teaching with the Upper Canada Board since 1994 and from that time has spent considerable time and effort upgrading his teaching credentials. In addition to his basic qualifications in Technological Studies in Transportation-Automotive, Woodwork and Welding, he added his Basic Qualification in Construction Technology (1996). He also achieved additional qualifications including the following: Cooperative Education, Part 1 (1996); Cooperative Education, Part 2 (1997); Design & Technology, Part 1 (1998); Cooperative Education, Specialist (2002).

17. The Member has assumed increasingly more responsibility at his school. He has been department head for the last four years and has been Vice Principal designate for the last three years. He has received excellent performance evaluations. He also participates in a mentoring program for new teachers.
18. The Member has also involved himself in his community. He is active in school/community liaison activities and participates in the Youth Apprenticeship Program.
19. In the ten years since he has returned to teaching there have been no complaints of any nature against the Member.
20. By this document, the Member, Dennis Stewart Henderson admits to the facts as stated in paragraphs 7 and 10 above and understands that by doing so he is waiving the right to require the College to prove these allegations against him and the right to a hearing.
21. By this document, the Member, Dennis Stewart Henderson, accepts that the matters referred to in paragraphs 7 and 10 above, constitute conduct which is unprofessional and pleads no contest to the allegations of professional misconduct against him, being more particularly a breach of Ontario Regulation 437/97 subsection 1(19), as set out in the Notice of Hearing which is attached hereto. (*ASF – Exhibit 2, Tab C*)
22. The Member states that:
  - (a) he understands fully the nature of the allegations against him;

- (b) he understands that by pleading no contest to allegations based on the facts set out in paragraphs 7 and 10, he is waiving the right to require the College to prove the case against him and the right to have a hearing;
- (c) he voluntarily decided to plead no contest; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the benefit of legal counsel.

23. 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) require the Member to appear before the Committee to be counselled, but the fact of the counselling not be recorded on the register;
- (b) direct that there be no recording of the fact of and particulars of the finding of professional misconduct on the public register; and
- (c) direct that there be no publication of the findings and order of the Committee, in the Official Publication of the College.

24. 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.

### **Member's Plea**

By this document, the Member, Dennis Stewart Henderson, accepts that the matters referred to in paragraphs 7 and 10 above constitute conduct which is unprofessional and pleads no contest to the allegations of professional misconduct against him, being more particularly a breach of Ontario Regulation 437/97 subsection 1(19), as set out in the *Notice of Hearing*.

At the hearing, the College withdrew the allegations of professional misconduct being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) 1(7), 1(14), 1(15) and 1(18). The College also withdrew the allegations of sexual abuse of a student or students as defined in sections 1 and 40(1.1) of the Act and incompetence as defined in section 30 (3) of the Act, in that he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

#### **Joint Submission as to Finding**

In light of the above facts and circumstances to which the Member has pleaded no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437, subsections 1(19).

#### **Decision as to Finding**

Having examined the Exhibits filed, and based on the plea of no contest in 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 Dennis Stewart Henderson committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsection 1(19).

### **Joint Submission as to Penalty**

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) require the Member to appear before the Committee to be counselled, but the fact of the counselling not be recorded on the register;
- (b) direct that there be no recording of the fact of and particulars of the finding of professional misconduct on the public register; and
- (c) direct that there be no publication of the findings and order of the Committee, in the Official Publication of the College.

### **Penalty Decision**

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

1. The Member is required to appear before the Committee to be counselled, but the fact of the counselling will not be recorded on the register;
2. The Committee directs that there be no recording of the fact of and particulars of the finding of professional misconduct on the public register; and
3. The Committee directs that there be no publication of the findings and the order of the Committee in the official publication of the College, *Professionally Speaking/Pour parler profession*.

### **Reasons for Decision**

The Committee relied on the Reasons for Judgment of Justice Smith (Exhibit 2, Tab B), who stated that: "...with the contradictions, the doubts, and the evidence that I have

found reliable, that makes it impossible for the accused to have committed the offences described in counts 2 and 3...”, and that there was contradictory evidence with respect to count 1.

The Committee was presented with evidence that the Member exhibited poor judgment.

No evidence was presented to support other allegations, which were withdrawn.

While the Committee finds that publication may serve as a general deterrent, the potential damage to the Member could be seen as gratuitous punishment particularly in light of the Member’s good record and advancement since his return to teaching in 1994. Therefore the Committee chose not to publish its decision in the official publication of the College in this case and not to record the fact of and particulars of the finding on the public Register.

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

Date: September 27, 2005

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Nancy Hutcheson  
Chair, Discipline Panel

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Don Cattani  
Member, Discipline Panel

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Eileen Walker  
Member, Discipline Panel