

**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 discipline proceedings against
Christopher John Hicks, a member of the Ontario College of Teachers.

Heard: September 29, 2003

PANEL: Pauline Demers (Chair)
 Don Cattani
 George Merrett

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**CHRISTOPHER JOHN HICKS
(CERTIFICATE #286867)**

REASONS FOR DECISION, DECISION AND ORDER (S)

Nadine Carpenter, Dispute Resolutions and Intake Administrator, for the Ontario College of Teachers

Nancy Spies of Stockwoods, Independent Legal Counsel

Christopher John Hicks was not present, nor was he represented by counsel.

This matter came before a panel of the Discipline Committee for a hearing on September 29, 2003 at the Ontario College of Teachers at Toronto.

A Notice of Hearing, dated September 5, 2003 was served on Christopher John Hicks, requesting attendance before the Discipline Committee of the Ontario College of Teachers on November 17, 2003 to set a date for a hearing, and specifying the charges.

Christopher John Hicks was not in attendance at the hearing. Proof of service of the Notice of Hearing was presented and accepted by the panel. (Exhibit 1).

The Allegations

The allegations against Christopher John Hicks in the Notice of Hearing dated September 5, 2003 are as follows:

IT IS ALLEGED that Christopher John Hicks is guilty of professional misconduct as defined in sections 30(2) and (3) and 40(1.1) 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, and/or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (d) he failed to comply with the *Education Act*, RSO 1990, c. E.2, and specifically section 264(1)(c) and/or the Regulations made under the Act, contrary to Ontario Regulation 437/97, subsection 1 (15);

- (e) he contravened a law that is relevant to the member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (f) he contravened a law that caused or may have caused a student who was under the member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (g) he committed an act or omission 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);
- (h) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (i) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the Act.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Christopher John Hicks (the "member") is a member of the Ontario College of Teachers.
2. At all material times, the member was employed as a teacher at Bancroft Christian Academy (the "school"), a private school in Bancroft, Ontario.
3. In or around March 2000, the member touched the body of [REDACTED], a male student, in a sexual manner with his hands. At that time, [REDACTED] was 12 years of age;
4. During the 1999 - 2000 academic school year, engaged in inappropriate behaviour toward [REDACTED], including:
 - (a) visiting [REDACTED] at his grandparents' home;

- (b) rubbing []'s shoulders and feet;
- (c) wrapping his hand around []'s penis inside his clothing; and
- (d) masturbating []

Publication Ban

On September 29, 2003, the Discipline panel made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

Member's Plea

The Member Christopher John Hicks admits that the matters referred to in paragraphs 1 through 4 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(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1 (19) and section 1 and 40(1.1) of the Act, as set out in the Notice of Hearing dated September 5, 2003.

Memorandum of Agreement

Counsel for the College advised the panel that subject to ratification by the panel, agreement had been reached on the facts and introduced a Memorandum of Agreement 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 attached and marked as Appendix "A", and in so doing, accepts as true the particulars set out therein. The member agrees and acknowledges

that he engaged in the conduct described in the Notice of Hearing and that conduct is professional misconduct as alleged.

2. 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.
3. The parties agree and understand that if the Discipline Committee ratifies this MOA, there shall be no appeal, by either party, to any forum, of any or all of the terms of this MOA, or from any decision of the Discipline Committee on any issue.
4. 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(4) of the *Ontario College of Teachers Act, 1996*, will direct the Registrar to revoke his certificate of qualification and registration immediately.
5. The member agrees and undertakes that upon ratification of this MOA by the Discipline Committee, he will surrender his certificate of qualification and registration to the Registrar.
6. 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 Appendices, if any, 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.
7. The member agrees and understands that for the purpose of considering this matter the Discipline Committee may be provided with a summary of the matter including the allegations contained in the Notice of Hearing.
8. The member agrees and understands that upon ratification of this MOA, a notation on the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, will include the following information:
 - (a) on September 29, 2003, Christopher John Hicks pleaded guilty to professional misconduct which included sexual touching of a male student; and
 - (b) on September 29, 2003, the Discipline Committee of the Ontario College of Teachers directed the Registrar to revoke the member's certificate of qualification and registration.

9. The member agrees and undertakes not to apply for reinstatement and a new certificate of qualification and registration for a period of three years to commence upon the ratification of this MOA by the Discipline Committee.
10. The member agrees and understands that should he apply for reinstatement and a new certificate of qualification and registration, pursuant to subsection 33(1) of the *Ontario College of Teachers Act, 1996*, the Registrar shall review this MOA in considering the member's application.
11. Subject to paragraph 9 of the MOA, the member agrees and undertakes not to seek or engage in employment where a certificate of qualification and registration is required.
12. The member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will publish the member's name with a summary of the matter and the nature of the resolution contained in this MOA. Such publication will be made in the College's official publication, *Professionally Speaking/Pour parler profession* and on the College's website.
13. The member agrees and understands that upon ratification of this MOA by the Discipline Committee, a copy of the Decision and Reasons, including this MOA, will be maintained in the College's Margaret Wilson Library and will be available for public review.
14. The member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will provide notice of the revocation of the member's certificate of qualification and registration to any Canadian school or school board, any Canadian teacher federation or affiliate, the Ontario Directors of Education and Heads of Private Schools, and the teacher licensing and governing bodies in Canada and elsewhere who are routinely notified by the College of such disciplinary action.
15. The parties agree and undertake to take no further action with respect to the matter provided that the terms of this MOA are complied with.
16. The parties agree and understand that if any paragraph of this MOA is null and void, the MOA shall be read as though the paragraph was stricken from the MOA and the amended MOA shall remain in force and effect.
17. The member agrees and understands that he has freely elected not to obtain representation from independent legal counsel despite being encouraged to do so by College staff.
18. The member agrees and understands that this MOA is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this MOA.

19. The member agrees and understands that should he breach this MOA by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this MOA to any employer, school, board, or licensing body who inquires about the member's record with the College.
20. The member agrees and understands that, in the event he breaches a term of this MOA, he is estopped from alleging, by way of defense, that the College failed to dispose of the matter in a timely manner and that he has been prejudiced by such delay.
21. The member agrees and understands that, in the event he breaches a term of this MOA, the College may provide the Investigation, Executive, Discipline, or Fitness to Practise Committees with all the information necessary to fulfil its statutory mandate.
22. 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 matter will proceed through the hearing process 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, and submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct, and in particular finds that Christopher John Hicks committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19); and

that he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act, 1996*.

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.

The Committee accordingly directs the Registrar of the Ontario College of Teachers (“Registrar”) to revoke the certificate of qualification and registration of Christopher John Hicks, which certificate the Member is to immediately surrender to the Registrar.

The Committee orders that the Member shall not apply to the Registrar under section 33 of the *Ontario College of Teachers Act* for reinstatement to have a new certificate issued for a period of three years from the date of this order.

Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the Committee also orders that the findings of this hearing, as well as the name of the Member, be published in summary in the official publication of the College, *Professionally Speaking/Pour parler profession*.

The Committee concluded that the proposed penalty is appropriate, having regard to all the circumstances and is in the public interest.

**DATED AT TORONTO, THIS 29TH DAY OF SEPTEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE.**

Pauline Demers, **Chair**

Don Cattani

George Merrett