

**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 Sherwood John Hinze, a member of the Ontario College of Teachers.

PANEL: Brent Hamelin, Chair
 Anne Marie Levesque
 Hanno Weinberger

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
SHERWOOD JOHN HINZE	)	Sherwood John Hinze,
(CERTIFICATE #449432)	)	was not present,
	)	nor was he represented
)	
	)	Johanna Braden,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: November 27, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 27, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated October 8, 2008, was served on Sherwood John Hinze, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on November 13, 2008, to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 27, 2008. Sherwood John Hinze was not in attendance at the hearing.

THE ALLEGATIONS

The *Notice of Hearing* sets out the following allegations:

IT IS ALLEGED that Sherwood John Hinze is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the Ontario College of Teachers Act (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* or 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); and
- (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*.

AGREED STATEMENT OF FACTS

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:

1. Sherwood John Hinze (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 Toronto District School Board as a teacher at [XXX] (the “School”).
3. The Member was a [XXX] and [XXX] teacher of a female student (the “Student”) during the 2006-2007 academic year.
4. During the 2007-2008 academic year, the Student was between [XXX] years of age, and was a member of a committee involved in the production of the School’s [XXX] for which the Member was a staff advisor.
5. During the 2007-2008 academic year, the Member commenced and conducted a personal relationship with the Student which included, but was not limited to, his:
 - (a) engaging in inappropriate telephone and/or electronic communications with the Student;
 - (b) travelling to and from the School with the Student;
 - (c) accompanying the Student to a restaurant for a meal;

- (d) engaging with the Student in inappropriate physical contact of a sexual nature; and
- (e) permitting the Student to visit him at his home on evenings and weekends when she on occasion stayed with him overnight.

6. The Member resigned from the Board on or about January 25, 2008 and the Member has continued his relationship with the Student.

PLEA OF NO CONTEST

7. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibits referred to in paragraphs 1 to 6 above.

8. The Member hereby acknowledges that the facts referred to in paragraph 5 above constitute professional misconduct and pleads no contest to these allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(5), (7), (14), (15), (18) and (19). The Member also pleads no contest to the allegation that he engaged in sexual abuse of a student or students of a nature defined in Sections 1 and 40(1.1) of the *Act*.

9. 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 paragraphs 1 to 6 above, including the referenced exhibits, 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 without the advice of legal counsel.

10. 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.

11. 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

12. 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 the Registrar of the Ontario College of Teachers to revoke the Certificate of Qualification and Registration of the Member; and

(b) 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 upon whether the Member's full name will be published in Professionally Speaking/Pour parler profession and submissions will be made to the Committee on that issue.

13. 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 *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 Sherwood John Hinze committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(18), 1(19) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1.) of the Act 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 6 of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*

(ASF - Exhibit 2). He acknowledges that the admitted facts referred to in paragraph 5 constitute professional misconduct and pleaded no contest to the allegations of professional misconduct against him, specifically breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the Act. The Committee accepted the Member's plea of no contest and the facts in the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

The Committee determined that the Member's conduct constitutes professional misconduct. The Member initiated and conducted a personal relationship with the student which is ongoing to date. The Member engaged in inappropriate telephone and electronic communications with the student, engaged in inappropriate physical contact of a sexual nature and permitted the student to visit him at his home on evenings and weekends when she, on occasion, stayed with him overnight. This conduct breaches Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19) and is sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the Act.

Submissions on Publication

After reviewing the *Agreed Statement of Facts*, College Counsel submitted that there should be publication with the name of the Member. Publication with the name provides the transparency and openness demanded by the public. Publication is necessary in order to provide the appropriate deterrence and to protect the public.

Subsequent to the Member entering into the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, he submitted a letter to the College dated November 25, 2008 recognizing the College's mandate to publish the findings of these proceedings and requesting that such publication be delayed until after the end of the academic school year, 2009. The Member requested this consideration because of a perceived concern for the welfare of the student with whom he continues to have a relationship.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member; and
2. 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, with the name of the Member in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee finds the Member initiated an inappropriate and unprofessional relationship with the student while she was under his care and supervision. The Member engaged in inappropriate communication with the student. The Member travelled to and from the school with the student. The member accompanied the student

to a restaurant for a meal. The Member, by his actions, groomed the student for a sexual relationship; he continues this inappropriate relationship and behaviour.

The Committee finds the Member's conduct is reprehensible and unbecoming a member of the profession. The Member abused the authority and trust vested in him in his role as a teacher for his own sexual gratification, without regard to the well being of the student. The conduct of the Member was unacceptable and in conflict with the duty of a teacher to protect, not abuse students. The Member has forfeited the privilege of holding a teaching certificate and being a member of the teaching profession. Revocation is the appropriate penalty for misconduct of this severity.

The Committee orders publication of the finding and order with the name of the Member. The Committee considered the Member's request to withhold publication until the Student graduates from high school. Given the current status of their relationship, the Committee felt there was no compelling reason to postpone publication. Publication will provide a general deterrent to the membership and ensure that the public is informed and protected.

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

Date: November 27, 2008

Brent Hamelin
Chair, Discipline Panel

Anne Marie Levesque
Member, Discipline Panel

Hanno Weinberger
Member, Discipline Panel