



A *Notice of Hearing* dated July 16, 2004 was served on Andrew John Hogg, requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 25, 2004 to hold a hearing, and specifying the charges. The *Notice of Hearing* was subsequently amended on October 21, 2004.

Andrew John Hogg was in attendance at the hearing.

### The Allegations

The allegations in the amended *Notice of Hearing* dated October 21, 2004 are as follows:

**IT WAS ALLEGED** that Andrew John Hogg is guilty of professional misconduct as defined in subsection 30(2) of the *Ontario College of Teachers Act* (the “Act”), Act in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5); 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. Andrew John Hogg (the “member”) is a member of the Ontario College of Teachers (Registry number 284563);
2. At all material times, the member was employed by the Thames Valley District School Board (the “board”) as a teacher at the Saunders Secondary School.
3. During the 2002/2003 academic year, the member acted inappropriately and unprofessionally with and in the presence of his students in that he:
  - a) discussed his nipple ring with students and showed it to them upon request;
  - b) engaged in rough housing with male students which included twisting their nipples over the top of their clothes;

- c) frequently poked, touched and tickled students as a means of getting their attention;
- d) made inappropriate and unprofessional comments to students; and
- e) used inappropriate and unprofessional language in the presence of students.

#### Member's Plea

The Member Andrew John Hogg 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(5) and 1(19) of the *Act*, as set out in the amended *Notice of Hearing* dated October 21, 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. 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.
2. 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 any or all of the terms of this *MOA*, or from any decision of the Discipline Committee on any issue.

3. 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.
4. By this document, the Member pleads guilty to professional misconduct as alleged in the amended *Notice of Hearing*, issued on October 21, 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 amended *Notice of Hearing* and that such conduct amounts to professional misconduct as alleged.
5. The Member agrees that he voluntarily admitted to the allegations contained in the amended *Notice of Hearing*.
6. The Member understands the nature of the allegations contained in the amended *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.
7. The Member agrees and understands that upon ratification of this *MOA*, the Discipline Committee shall find him guilty of professional misconduct pursuant to subsection 39(2) of the *Ontario College of Teachers Act, 1996*.
8. In accordance with subsection 30(5) of the *Ontario College of Teachers Act, 1996*, the Member agrees and understands that upon ratification of this *MOA*, the Discipline Committee will order the Member to be reprimanded, in person.
9. The Member agrees and undertakes that within 90 calendar days of the ratification of this *MOA*, he shall complete successfully a course of instruction by a practitioner approved by the Registrar, with respect to the importance of maintaining appropriate boundaries with students.

10. The Member agrees and understands that the cost of the course of instruction described in the preceding paragraph shall be borne solely by him.
11. The Member agrees and undertakes to provide to the Registrar written confirmation that he has completed successfully the course of instruction, within 30 calendar days of completion.
12. 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:  
  
On October 25, 2004, the Discipline Committee found Andrew John Hogg guilty of professional misconduct. Reprimand.
13. 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 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 web site, and in such manner as the Registrar of the College deems appropriate.
14. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will maintain a copy of the Decisions and Reasons of the Discipline Committee, including this *MOA*, in the College's Margaret Wilson Library. The Decision and Reasons will be available for review by the public.
15. The Member agrees and understands that upon ratification of this *MOA* by the Discipline Committee, the College will provide the Member's employer, the Thames Valley District School, with the Discipline Committee's Decision and Reasons, including this *MOA*, pursuant to section 43.4 of the *Ontario College of Teachers Act, 1996*.

16. 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 amended *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.
17. 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 Registrar's complaint and the amended *Notice of Hearing*.
18. 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.
19. 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*.
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 defence, that the College failed to investigate or dispose of the complaint in a timely manner with respect to that period between the resolution of the complaint herein and the time that the College becomes aware of such a breach.
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 Committee 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 complaint 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*, 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 Andrew John Hogg committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5) 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, Andrew John Hogg, appear before the Committee to be reprimanded and the fact of the reprimand will be recorded on the Register of the College.

The Committee further orders that pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act, 1996*, the findings and order of the Committee be published in summary, with the name of the Member, in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession*.

The Committee further accepts the undertaking of the Member, that he will within 90 calendar days of the ratification of this MOA, successfully complete a course of instruction by a practitioner approved by the Registrar, with respect to the importance of maintaining appropriate boundaries with students and will provide the Registrar with written confirmation that he has successfully completed the course of instruction, within 30 calendar days of completion.

### Reasons for Decision and Order

Andrew John Hogg has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions. The Committee is satisfied that it is appropriate in the circumstances, that the Member successfully complete a course of instruction, approved by the Registrar, on maintaining appropriate

boundaries with students and that the taking of such course will serve to remediate the Member.

The Committee concludes that the penalty is reasonable, serves the purpose of general deterrence and protects the public interest.

Date: November 4, 2004

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Marilyn A. Laframboise  
Chair, Discipline Panel

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Janet Cornwall  
Member, Discipline Panel

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Rosemary Fontaine  
Member, Discipline Panel