

**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
Frederick Brent Holden, a member of the Ontario College of
Teachers.

PANEL: Lou Watson, Chair
Paul Charron
Ted Coulson

BETWEEN:)	
)	
	)	Nadine Carpenter,
ONTARIO COLLEGE OF TEACHERS	)	Dispute Resolutions Administrator,
	)	for Ontario College of Teachers
- and -)	
)	
FREDERICK BRENT HOLDEN	)	David Matheson,
(CERTIFICATE #157027)	)	Cavalluzzo Hayes Shilton McIntyre
	)	& Cornish,
	)	for Frederick Brent Holden
)	
	)	Johanna Braden,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: October 14, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the
“Committee”) on October 14, 2004 at the Ontario College of Teachers (“the College”) at
Toronto.

A *Notice of Hearing* dated September 20, 2004 was served on Frederick Brent Holden, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 8, 2004 to hold a hearing, and specifying the charges. The matter was subsequently reset for hearing on October 14, 2004.

Frederick Brent Holden was in attendance at the hearing.

The Allegations

The allegations in the *Notice of Hearing* dated September 20, 2004 are as follows:

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

- (a) failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) failed to comply with the Act, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (c) failed to comply with the *Education Act*, R.S.O. 1990, c. E.2 and specifically paragraph 264(1)(c) thereof or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) committed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/87, subsection 1(18); and
- (e) engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Frederick Brent Holden (the “member”) is a member of the Ontario College of Teachers (Registry number 157027).
2. At all material times, the member was employed by the District School Board of Niagara (the “Board”) as a teacher at Westdale Public School (the “School”).
3. At all material times, [■] was a female student at the school.
4. During the 2000-2002 academic school years, the member engaged in unprofessional and inappropriate behaviour including but not limited to:
 - (a) communicating excessively with [■] in school journals;
 - (b) communicating with [■] outside of school in the form of electronic mail in large volume and on a nearly daily basis;
 - (c) continuing a relationship with [■] following [■]’s graduation from the school;
 - (d) exchanging personal information with [■];
 - (e) contacting [■] outside of school including giving her rides and telephoning her;
 - (f) attending [■]’s home;
 - (g) attending outside of school functions in order to be near [■] including but not limited to attending [■]’s final rowing Regatta, her dance recital rehearsal and dance recital;
 - (h) taking [■] to lunch during the school day for winning a “contest” in his class;
 - (i) requesting that [■] maintain secrecy in respect of their relationship;
 - (j) failing to desist in his relationship with [■] despite being instructed by his employer, the complainant, and Sergeant McCaffery and Constable McAllister of the Niagara Regional Police Service;
 - (k) criticizing other adults in [■]’s life; and
 - (l) sending a personal letter by courier to [■] at summer camp.

5. The member retired from his employment with the board effective December 31, 2002.

Publication Ban

On October 14, 2004, the Committee 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 Frederick Brent Holden admits that the matters referred to in paragraph 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(14), 1(15), 1(18) and 1(19) of the *Act*, as set out in the *Notice of Hearing* dated September 20, 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 *Notice of Hearing*, issued on September 20, 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.
5. The Member agrees that he voluntarily admitted to the allegations contained in the *Notice of Hearing*.
6. 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.
7. 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.

8. 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 *Notice of Hearing*.
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 reprimand the Member, in person, with respect to the incidents giving rise to this complaint.
10. Should the member obtain employment where a certificate of qualification and registration is required, he agrees and undertakes that within 90 calendar days of commencing employment, he shall complete a course of instruction, approved by the Registrar, regarding maintaining appropriate boundaries with students.
11. The member agrees and understands that any costs associated with the course of instruction shall be borne solely by him.
12. The member agrees and undertakes that within 30 calendar days of completing the course of instruction, the Registrar will be provided with written confirmation of successful completion of said course;
13. 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 14, 2004, Frederick Brent Holden pleaded guilty to professional misconduct and the Discipline Committee of the Ontario College of Teachers reprimanded him.

14. 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 other manner as deemed appropriate by the Registrar.
15. 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.
16. The member agrees and understands that upon ratification of this MOA by the Discipline Committee, the College will provide the member's former employer, the District School Board of Niagara, with the Discipline Committee's Decision and Reasons, including this MOA, pursuant to section 43.4 of the *Ontario College of Teachers Act, 1996*.
17. 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.
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, 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.

20. The member agrees and understands that, in the event he breaches a term of this MOA, the College may conduct an investigation or hearing into this matter as permitted under the *Ontario College of Teachers Act, 1996*.
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 Frederick Brent Holden committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(18) 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, Frederick Brent Holden, 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 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

Frederick Brent Holden 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 should the Member obtain employment where a certificate of qualification

and registration is required, he agrees that within 90 calendar days of commencing employment, he will complete a course of instruction, approved by the Registrar, on maintaining appropriate boundaries with students

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

Date: October 14, 2004

Lou Watson
Chair, Discipline Panel

Paul Charron
Member, Discipline Panel

Ted Coulson
Member, Discipline Panel