

**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
Francine Anne Kia Hope, a member of the Ontario College of
Teachers.

PANEL: Brent Hamelin, OCT Chair
 Anne Marie Levesque
 Hanno Weinberger, OCT

BETWEEN:	)	Awanish Sinha,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
	)	Gleb Bazov,
	)	Ricketts, Harris LLP,
	)	for Francine Anne Kia Hope
FRANCINE ANNE KIA HOPE)	
(CERTIFICATE #494723))	
	)	Bonni Ellis,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: February 25, 2009 and
	)	April 13, 2010

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on February 25, 2009 and April 13, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated October 16, 2008 was served on Francine Anne Kia Hope, requesting her presence on November 13, 2008 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for April 13, 2010.

Francine Anne Kia Hope was in attendance.

THE ALLEGATIONS

The allegations against Francine Anne Kia Hope in the *Notice of Hearing*, (Exhibit 1) dated October 16, 2008, are as follows:

IT IS ALLEGED that Francine Anne Kia Hope is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario 1990, chapter E2 or the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and 1(15);
- (c) she 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);
and
- (d) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on April 13, 2010, College counsel sought to withdraw the allegation of professional misconduct in part of paragraph (b), namely that the Member breached Ontario Regulation 437/97, subsection 1(14). The Committee agrees that this allegation shall be withdrawn.

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced a *Statement of Uncontested Facts, Plea of No Contest and Joint Submission on Penalty* (**SUF – Exhibit 3**), which provides as follows:

STATEMENT OF UNCONTESTED FACTS

1. Francine Anne Kia Hope (the “Member”) is a member of the Ontario College of Teachers. The Member’s current status is suspended – non-payment of fees. 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 Havergal College (the “School”), in Toronto, Ontario, an independent girls’ day and boarding school in Toronto, Ontario. The Member primarily was employed as the Senior Residence don with a part-time workload in teaching physical education.
3. On or about early December 2006, the Member downloaded items from the personal computer of Sheri Purvis (“Ms Purvis”), the Residence Head at the School, including Ms Purvis’ curriculum vitae, without Ms Purvis’ knowledge or consent.
4. The Member’s employment with the School was terminated on or about December 21, 2006.

PLEA OF NO CONTEST

5. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibit referred to in paragraphs 1 to 4 above (the “uncontested facts”).

6. The Member hereby acknowledges that the uncontested facts referred to in paragraph 3 above, constitute conduct which is professional misconduct, being more particularly breaches of Ontario Regulation 437/97 1(5), 1(15), 1(18), and 1(19).

7. By this document the Member states that:

- (a) she understands fully the nature of the allegations against her;
- (b) she understands that by signing this document she is consenting to the evidence as set out in the uncontested facts being presented to the Discipline Committee;
- (c) she understands that by pleading no contest to the allegations, she is waiving the right to require the College to prove the case against her and the right to have a hearing;
- (d) she understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to her name, may be published in the official publication of the College;
- (e) she understands that any agreement between her counsel and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;
- (f) she understands and acknowledges that she is executing this Agreement voluntarily, unequivocally, and with the advice of legal counsel.

8. 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.

9. 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

10. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in these matters would be that the Committee:

- (a) directs that the Member appear before the Committee immediately following the hearing of this matter to receive a reprimand, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) directs the Registrar to impose the following terms or conditions on the Member's certificate that, prior to undertaking a teaching position in any school in Ontario for which a certificate is required, the Member is:
 - (i) to enrol in and complete, at her own expense, a one-on-one counselling course of instruction in Professional Boundaries and Ethics, by a provider of such course, pre-approved by the Registrar, and the Member shall deliver directly to the Registrar, within thirty (30) days of completion of that course, a written certificate from the course provider stating that he or she has

received a copy of this document and the Decision and Reasons of the Discipline Committee, and that the Member has successfully completed the course;

- (ii) to notify the Registrar at least thirty (30) days before commencing work as a teacher at any public or private school of the date on which she intends to return to work as a teacher and the name of her employer;
- (c) directs that there be publication of the findings and Order of the Committee in summary form, including the name of the Member in the official publication of the College, *Professionally Speaking/Pour parler profession.*

DECISION

Having examined the Exhibits filed, and based on the plea of no contest, the *Statement of Uncontested Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel for the College and counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Francine Anne Kia Hope committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(15), 1(18 - unprofessional) and 1(19).

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 3 (the “uncontested facts”) of the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty* (SUF - Exhibit 2). She acknowledged that the uncontested

facts referred to in paragraph 3 of the SUF constitute professional misconduct and pleaded no contest to the allegations of professional misconduct. The Committee accepted the Member's plea of no contest and the facts in the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty*.

The Member downloaded items from the personal computer of Sheri Purvis ("Ms Purvis"), the Residence Head at the School, including Ms Purvis' curriculum vitae, without Ms Purvis' knowledge or consent.

By this behaviour, the Member committed acts of professional misconduct, more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(15), 1(18 – unprofessional) and 1(19).

PENALTY DECISION

The Committee makes the following order as to penalty:

- (a) the Member is directed to appear before the Committee immediately following the hearing of this matter to receive a reprimand, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) the Registrar is directed to impose the following terms or conditions on the Member's certificate that, prior to undertaking a teaching position in any school in Ontario for which a certificate is required, the Member is:
 - (i) to enrol in and complete, at her own expense, a one-on-one counselling course of instruction in Professional Boundaries and Ethics, by a provider of such course, pre-approved by the

Registrar, and the Member shall deliver directly to the Registrar, within thirty (30) days of completion of that course, a written certificate from the course provider stating that he or she has received a copy of this document and the Decision and Reasons of the Discipline Committee, and that the Member has successfully completed the course;

- (ii) to notify the Registrar at least thirty (30) days before commencing work as a teacher at any public or private school of the date on which she intends to return to work as a teacher and the name of her employer;

- (c) the Committee directs that there be publication of the findings and Order of the Committee in summary form, without the name of the Member in the official publication of the College, Professionally Speaking/Pour parler profession.

REASONS FOR PENALTY DECISION

The Committee supports the joint submission on penalty with respect to the reprimand and the course on professional boundaries and ethics. The reprimand of the Member by her peers in respect of her inappropriate conduct serves to reinforce to the Member that her behaviour is unprofessional. The fact that the reprimand will be recorded on the Register also serves as a specific deterrent to the Member. The course of instruction regarding professional boundaries and ethics will reinforce the Member's understanding of the requirement to respect personal boundaries.

The Committee concluded that publication of the findings and order of the Committee, in summary, without the name of the Member, in *Professionally Speaking/Pour parler profession* was appropriate. The nature of the Member's misconduct was such that the Committee determined publication of her name was not warranted. There was no evidence before the Committee of any prior or subsequent misconduct. The reprimand and course provide a specific deterrent to the Member. Publication without name provides general deterrence and informs the profession that the College treats this type of behaviour seriously. Publication of the findings and summary without name is sufficient to serve the public interest.

Date: April 13, 2010

Brent Hamelin, OCT
Chair, Discipline Panel

Anne Marie Levesque
Member, Discipline Panel

Hanno Weinberger, OCT
Member, Discipline Panel