

**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 George Arnold Hoytema, a member of the Ontario College of Teachers.

PANEL: Eileen Walker, Chair  
Rosemary Fontaine  
Jacques Tremblay

BETWEEN:	)	
	)	Heather Meredith,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -	)	
	)	William Markle & Stephanie Carey,
	)	Markle, May, Phibbs,
GEORGE ARNOLD HOYTEMA	)	for George Arnold Hoytema
(CERTIFICATE #186351)	)	
	)	
	)	Johanna Braden,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
	)	
	)	Heard: May 29, 2006

**REASONS FOR DECISION, DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on May 29, 2006 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated April 8, 2005 was served on George Arnold Hoytema, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 27, 2005 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for May 29, 2006.

George Arnold Hoytema was in attendance at the hearing.

### **THE ALLEGATIONS**

The allegations against George Arnold Hoytema in the *Notice of Hearing*, (*Exhibit 1*) dated April 8, 2005, are as follows:

**IT IS ALLEGED** that George Arnold Hoytema is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (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 and 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 contravened a law, the contravention of which is relevant to the Member’s suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);

- (e) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (f) 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); and
- (g) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19).

At the hearing on May 29 2006, Counsel for the College withdrew the allegations of professional misconduct as outlined in (a), (b), (c), (d), (e) and (f) above.

#### **AGREED STATEMENT OF FACTS**

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty. (ASF – Exhibit 2)*

*The Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty provides* as follows:

1. George Arnold Hoytema (the "Member") is a member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Registered Member Information of the Member. *(ASF – Exhibit 2, Tab A)*
2. During the 2001-2002 academic year the Member was employed as the principal of [REDACTED] a private school in Orillia.

3. During the 2001-2002 academic year [REDACTED] was a male [REDACTED] student of [REDACTED]. In January 2002, [REDACTED] was approximately [REDACTED] years of age. At the same time, [REDACTED] was a [REDACTED] student of [REDACTED]. [REDACTED].
4. On or about 15 January 2002, the Member observed an incident in the schoolyard of [REDACTED], where [REDACTED] hit [REDACTED] in the face and on the body with a plastic object.
5. The Member then grabbed [REDACTED] by the jacket collar, following which the Member escorted [REDACTED] to the Member's office in the school building, while speaking angrily to [REDACTED]
6. During the 2002-2003 academic year, the Member was employed by the [REDACTED] ("the Board") as a probationary occasional teacher at [REDACTED] ("the School") in Orillia.
7. At the same time, [REDACTED] was a male [REDACTED] student of the School.
8. On or about 21 March 2003, the Member was teaching [REDACTED] Grade [REDACTED] class. After repeatedly reprimanding [REDACTED] for misbehaving, the Member told [REDACTED] to place his head on his desk and when [REDACTED] did not do so quickly enough, the Member pushed [REDACTED]'s head onto [REDACTED]'s desk with sufficient force that [REDACTED]'s tooth cut his lip, causing a small amount bleeding.
9. On or about 11 May 2004, the Member was found guilty in the Ontario Court of Justice by The Honourable Mr. Justice Cavion of a charge of assault in respect of the conduct described in paragraph 8 above. The Member was given an absolute

discharge and, through his counsel, provided the Court with an undertaking to make a charitable donation.

10. The Member appealed the finding of guilt, but his appeal was dismissed by The Honourable Mr. Justice Graham of the Superior Court of Justice on 12 September 2005.
11. Attached is a copy of the transcript of the Reasons for Judgment of The Honourable Mr. Justice Cavion rendered on 11 May 2004 in the matter of *Her Majesty the Queen v. George Hoytema*. (ASF – Exhibit 2, Tab B)
12. Attached is a copy of the Reasons of Mr. Justice Graham with respect to the 12 September 2005 appeal. (ASF – Exhibit 2, Tab C)

#### **PLEA OF NO CONTEST**

13. By this document, the Member, George Arnold Hoytema, admits to the facts and documents as stated and referred to in paragraphs 1 to 12 above and understands that by doing so he is waiving the right to require the College to prove these allegations against him and the right to a hearing.
14. By this document, the Member, George Arnold Hoytema, accepts that the matters referred to in paragraphs 5, 8 and 9 above, constitute conduct which is unprofessional and pleads no contest to the allegations of professional misconduct against him, being more particularly a breach of Ontario Regulation 437/97 subsection 1(19), as set out in the Notice of Hearing which is attached hereto.  
(ASF – Exhibit 2, Tab D)

15. In light of the Admitted Facts, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.
16. The Member states that:
- (a) he understands fully the nature of the allegations against him;
  - (b) he understands that by pleading no contest to allegations based on the facts set out in paragraphs 5, 8 and 9 above, he is waiving the right to require the College to prove the case against him and the right to have a hearing;
  - (c) he voluntarily decided to plead no contest; and
  - (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the benefit of legal counsel.
17. The Member has provided proof, in the form of a counsellor's report, that he attended counselling for anger management issues. A copy of the counsellor's report is attached hereto. (*ASF – Exhibit 2, Tab E*) The Ontario College of Teachers and the Member jointly submit that the counselling course taken by the Member and the report at *ASF - Exhibit 2, Tab E* satisfy paragraph 18(a)(i) below.

#### **JOINT SUBMISSION ON PENALTY**

18. 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) direct the Registrar of the Ontario College of Teachers to suspend the Certificate of Qualification and Registration of the Member for a period of three months. However, the suspension of the Certificate of Qualification

and Registration of the Member will be postponed for a period of ninety days and not imposed if the terms below are met within that time:

(i) within sixty days of the completion of the hearing of this matter, or sooner, the Member, at his expense, attends and successfully completes a course in anger management pre-approved by the Registrar and, following completion of the course, provides the Registrar with a report from the counsellor who conducted the course advising that the Member successfully completed the course (as set out above, the Member has satisfied this condition); and

(ii) within thirty days of the end of the 2005-2006 academic year, or at the end of the Member's employment with his current school or school board, whichever occurs first, the Member will request that the principal of the School where the Member is currently employed send to the Registrar a report attesting to the favourable and satisfactory conduct of the Member. Despite such reasonable steps, should the Member's employer refuse to provide such a report, the Member shall immediately notify the Registrar of this fact and the Registrar may, in his or her discretion, refer this issue to a panel of the Discipline Committee to be dealt with; and

(b) direct that there be publication of the findings and order of the Committee in the official publication of the College.

19. The parties have not agreed and will make submissions to the Discipline Committee as to whether or not the publication provided for in paragraph 18(b) will include the full name of the Member.

20. 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.

## **SUBMISSIONS AS TO PUBLICATION**

Submissions with respect to publication were made to the Committee. Counsel for the College submitted that the Committee should publish the name of the Member. The appropriate test as to publication would be to balance the risk of harm to the member and his family versus general deterrent value. Counsel for the College submitted that the compelling reasons to deviate from the norm were not evident in this case and therefore the name of the Member should be published.

Counsel for the Member stated that it was the obligation of the Committee to find a balance of fairness between representing the public interest and the interests of the Member. Counsel also pointed out that the Member had complied with the terms of the joint submission in that he had already successfully completed an anger management course and had been enrolled in counselling. Counsel indicated that a positive interim report had been received from his principal and that a further report would be produced within the timeframe agreed to in the joint submission and publication of the Member's name would not serve as a specific deterrent as the Member had already been rehabilitated. Counsel further submitted that the Member's spouse, who shares the same surname, is also a teacher and a member of the Ontario College of Teachers who would be embarrassed if the Member's name was published.

## **DECISION AS TO FINDING**

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 George Arnold Hoytema committed acts of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 1(19) as set out in the *Notice of Hearing*.

## **PENALTY DECISION**

The Committee accepts the Joint Submission on Penalty and makes the following order as to penalty:

- (a) The Registrar of the Ontario College of Teachers is directed to suspend the Certificate of Qualification and Registration of the Member for a period of three months. However, the suspension of the Certificate of Qualification and Registration of the Member will be postponed for a period of ninety days and not imposed if the terms below are met within that time:
  - (i) within sixty days of the completion of the hearing of this matter, or sooner, the Member, at his expense, attends and successfully completes a course in anger management pre-approved by the Registrar and, following completion of the course, provides the Registrar with a report from the counsellor who conducted the course advising that the Member successfully completed the course (as set out above, the Member has satisfied this condition); and
  - (ii) within thirty days of the end of the 2005-2006 academic year, or at the end of the Member's employment with his current school or

school board, whichever occurs first, the Member will request that the principal of the school where the Member is currently employed send to the Registrar a report attesting to the favourable and satisfactory conduct of the Member. Despite such reasonable steps, should the Member's employer refuse to provide such a report, the Member shall immediately notify the Registrar of this fact and the Registrar may, in his or her discretion, refer this issue to a panel of the Discipline Committee to be dealt with; and

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

## **REASONS FOR DECISION**

The Committee accepted the Member's plea of no contest, the *Agreed Statement of Facts*, *Plea of No Contest* and *Joint Submission on Penalty*. The Committee concurred that the Member's grabbing [redacted]'s jacket collar while speaking angrily to him and his pushing [redacted]'s head onto [redacted]'s desk with sufficient force that [redacted]'s tooth cut his lip, causing a small amount of bleeding was conduct unbecoming and constituted professional misconduct pursuant to Ontario Regulation 437/97 subsection 1(19).

The Member was found guilty of a charge of assault in respect of the conduct towards [redacted]. and received an absolute discharge. The Member appealed the conviction but the

appeal was dismissed. However the Appeal Court accepted that the offence of the Member “was a momentary lapse in an otherwise apparently successful teaching career.”

*ASF – Exhibit 2, Tab C*

The Committee found that the actions of the Member, while constituting professional misconduct, were minor in nature. This argument was supported by the College’s withdrawal of the more serious allegations of professional misconduct as set out in the Notice of Hearing. The Member pleaded no contest to the sole allegation of conduct unbecoming.

The Committee believes that general deterrence and the public interest can be served by publishing the facts while withholding the Member’s name. Members of the College will recognize that similar actions will have consequences. Publication of the findings and order of the Committee will act as a general deterrent to the profession and will inform the public that such behaviour as exhibited by the Member will not be condoned. Specific deterrence is not at issue as the Member has been proactive in his rehabilitation by participating in anger management counselling.

The Committee finds the most compelling reason not to publish the Member’s name is that to do so would have an adverse impact on the Member’s spouse, who is currently teaching and is a member of the College. As the official publication of the College of Teachers is sent mainly to the teaching profession, it would be read by colleagues and might prove to be embarrassing to the Member’s spouse.

In the particular circumstances of this case, the Committee is satisfied that publication of the findings without the name of the Member is appropriate for the reasons outlined above.

Date: May 29, 2006

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Eileen Walker  
Chair, Discipline Panel

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Rosemary Fontaine  
Member, Discipline Panel

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Jacques Tremblay  
Member, Discipline Panel