

**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
Walter Jakimczuk, a member of the Ontario College of Teachers.

PANEL: Don Cattani, Chair
 Amin Saab
 Jacques Tremblay

BETWEEN:)	
)	
	)	Brian Wasyliw,
	)	McCarthy Tétrault LLP,
ONTARIO COLLEGE OF TEACHERS	)	for Ontario College of Teachers,
	)	assisted by Trevor Evans,
- and -	)	Senior Law Clerk
)	
	)	David Bloom,
	)	Cavalluzzo Hayes Shilton
WALTER JAKIMCZUK	)	McIntyre & Cornish LLP,
(CERTIFICATE #162072)	)	for Walter Jakimczuk
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: April 25, 2006

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on April 25, 2006 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated April 18, 2005 was served on Walter Jakimczuk, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 2, 2005 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for April 25, 2006.

Walter Jakimczuk was in attendance at the hearing.

The Allegations

The allegations against Walter Jakimczuk in the *Notice of Hearing*, (*Exhibit 1*) dated April 18, 2005, are as follows:

IT IS ALLEGED that Walter Jakimczuk 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 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

- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19).

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 and Guilty Plea and Joint Submission on Penalty*. (ASF – Exhibit 2)

The *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty* provides as follows:

1. Walter Jakimczuk (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 in respect of the Member. (ASF – Exhibit 2, Tab A)
2. During the 2002-2003 school year the Member was employed by the Ottawa-Carleton District School Board (the “Board”) as a teacher at [REDACTED] School (“the School”) in [REDACTED], Ontario.
3. At the same time [REDACTED] was a male [REDACTED] student in the [REDACTED] at the School.
4. On or about 28 October 2002, the Member acted in an unprofessional and inappropriate manner towards [REDACTED] in that he placed his hands on [REDACTED]’s shoulders and used his hands to square the shoulders of [REDACTED], while admonishing [REDACTED] for his behaviour.

5. On or about 26 March 2003, the Member while in the Staff Review Panel process of the Board admitted that he ought not to have made physical contact with [] and described his conduct as a lapse in judgment.
6. By letter dated 1 April 2003, a copy of which is attached, the Board stated that the Member's conduct demonstrated poor judgment on the part of the Member, warned the Member regarding future interactions with students and urged the Member to attend a workshop in Non-violent Crisis Intervention. (*ASF – Exhibit 2, Tab B*)

GUILTY PLEA

7. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 6 above (the "Admitted Facts"). The Member hereby acknowledges that his conduct as described in paragraphs 4 of the Admitted Facts, constitutes conduct that is unprofessional and pleads guilty to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 s.1 (5)(14)(15) and (18).
8. The Member states that:
 - (a) he understands fully the nature of the allegations against him;
 - (b) he understands that by pleading guilty to the allegations, 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 guilty; and
 - (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

9. In light of the Admitted Facts, 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 this matter would be that the Committee:

- (a) direct the Member to immediately appear before the Committee to be reprimanded, and the fact of the reprimand to be recorded on the Register of the Ontario College of Teachers;
- (b) direct the Member within sixty (60) days of the date of the Decision of the Discipline Committee in this matter, to provide to the Registrar of the Ontario College of Teachers proof of his successful completion, within the past three years, of a course in Non-violent Crisis Intervention; and
- (c) direct that there be publication of the findings and Order of the Committee in summary form, including the full name of the Member in the official publication of the College.

11. 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 AS TO FINDING

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts, Guilty Plea 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 Walter Jakimczuk committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsection 1(5), 1(14), 1(15), and 1(18) 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:

1. The Member is required to appear before the Committee to be reprimanded, and the fact of the reprimand will be recorded on the Register of the Ontario College of Teachers;
2. The Committee directs the Member within sixty (60) days of the date of the Decision of the Discipline Committee in this matter, to provide to the Registrar of the Ontario College of Teachers proof of his successful completion, within the past three years, of a course in Non-violent Crisis Intervention; and
3. The Committee directs that there be publication of the findings and Order of the Committee in summary form, including 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 guilty plea, the *Agreed Statement of Facts and Guilty Plea* and *Joint Submission on Penalty*. The Committee concurred that the Member's physical contact with [■] constituted professional misconduct.

The Committee accepted the joint submission on penalty in that professional misconduct arose out of a single occurrence in a lengthy career and therefore a reprimand was appropriate as a specific deterrent to the Member.

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.

Date: April 25, 2006

Don Cattani
Chair, Discipline Panel

Amin Saab
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel