

**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
Allen Fairfield Judd, a member of the Ontario College of Teachers.

PANEL: Anne Vinet-Roy, Chair
Bernard J. Adam
Lou Watson

BETWEEN:)	
)	
	)	Carole Jenkins,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans
)	
- and -)	
)	
ALLEN FAIRFIELD JUDD	)	William Markle,
(CERTIFICATE #140378)	)	Markle May Phibbs,
	)	for Allen Fairfield Judd
)	
)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: November 22, 2004

REASONS FOR DECISION, DECISION AND ORDER (S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 22, 2004 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated August 23, 2004 was served on Allen Fairfield Judd, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 20, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 22, 2004.

Allen Fairfield Judd was in attendance at the hearing.

The Allegations

The allegations against Allen Fairfield Judd in the *Notice of Hearing*, dated August 23, 2004, are as follows:

IT IS ALLEGED that Allen Fairfield Judd is guilty of professional misconduct as defined in sections 30(2) of the Act, and/or is incompetent as defined in section 30 (3) 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 his 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);
- (g) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19); and
- (h) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's certificate should be made subject to terms, conditions or limitations.

Publication Ban

On November 22, 2004 the Committee made an order that there be no publication of any information that may disclose the identities of the students involved in this matter.

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. (ASF – Exhibit 2)*

The *Agreed Statement of Facts and Guilty Plea* provides as follows:

1. Allen Fairfield Judd (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 2003-2004 school year, the Member was employed by the Halton Catholic District School Board (the "Board") as an occasional teacher at elementary school ("the School").
3. During the same school year, a ten-year-old male grade 5 student ("the student") at the School.
4. On or about 19 November 2003, while in a classroom at the School, the Member approached the student from behind, while the student was engaged in horseplay with another student. The Member then applied force to the back of the student's head and said words to the effect that the student was lucky that it was a Catholic school or it could have been much worse.
5. On or about 6 December 2003, the Member was charged with committing an assault on the student on 19 November 2003, contrary to section 266 of the *Criminal Code* (Canada).
6. On or about 14 September 2004, the Member pleaded guilty in the Ontario Court of Justice to the charge referred to in paragraph 5 above and was found guilty. The Member was fined \$50.00 and placed on probation for a period of 12 months.
7. Attached is a certified copy of the Information of the Ontario Court of Justice showing the disposition of the charges against the Member. (*ASF-Exhibit 2, Tab B*)
8. Attached is a copy of the Probation Order issued on 14 September 2004. (*ASF-Exhibit 2, Tab C*)

9. Attached is a copy of the transcript of the plea and sentencing before the Honourable Mr. Justice F.L. Forsyth on 14 September 2004, in Burlington, Ontario. (*ASF-Exhibit 2, Tab D*)

Member's Plea

By this document, the Member, Allen Fairfield Judd, accepts that the matters referred to in paragraphs 4 and 6 above 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(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19), as set out in the *Notice of Hearing*.

Further, the Member pleads guilty to displaying a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's Certificate should be made subject to terms, conditions or limitations.

By this document, the Member states that:

- (a) he understands fully the nature of the allegations that have been made 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; and
- (c) he voluntarily decided to plead guilty.

Joint Submission as to Finding

In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member jointly submit that the Discipline Committee find the Member guilty of professional misconduct and incompetence.

Decision as to Finding

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts and Guilty Plea*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct and incompetence. In particular, the Committee finds that Allen Fairfield Judd committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsection 1(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19), as set out in the *Notice of Hearing*.

Further, the Committee finds that the Member displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's certificate should be made subject to terms, conditions or limitations.

Joint Submission as to Penalty

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) require the Member to immediately appear before the Committee to be reprimanded, and the fact of the reprimand be recorded on the Register;
- (b) require the Member, prior to the Member's acceptance of any Offer of Employment as a teacher to receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students.
- (c) the College will consider programs suggested by the Member and will convey acceptability expeditiously. The assignment of such course of instruction is to be completed by the Member at the Member's own expense and proof of the Member's successful completion of such program is to be received by the Registrar of the College directly from the Member at least one (1) month prior to the Member's commencement of any teaching duties or teaching assignment; and
- (d) direct that the findings and order of the Committee, including the Member's name, be published in summary, with the Member's name, in the official publication of the College, *Professionally Speaking*//*Pour parler profession*.

Penalty Decision

The Committee accepts the joint submission on penalty and accordingly requires that the Member, Allen Fairfield Judd, appear before the Committee to be reprimanded and the fact of the reprimand will be recorded on the Register of the College.

The Committee also requires that the Member, prior to the Member's acceptance of any Offer of Employment as a teacher, receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students.

The College will consider programs suggested by the Member and will convey acceptability expeditiously. The assignment of such course of instruction is to be completed by the Member at the Member's own expense and proof of the Member's successful completion of such program is to be received by the Registrar of the College directly from the Member at least one (1) month prior to the Member's commencement of any teaching duties or teaching assignment.

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

Reasons for Decision

The Committee concluded that the proposed penalty is reasonable and serves and protects the public interest.

The order meets the objective of general deterrence, i.e. a message to the profession to deter members of the profession from engaging in similar misconduct.

The order meets the objective of specific deterrence to the Member and the order will remediate the Member by requiring him to complete a course of instruction regarding

discipline techniques and classroom management for dealing with difficult students prior to returning to the classroom.

Date: November 22, 2004

Anne Vinet-Roy
Chair, Discipline Panel

Bernard J. Adam
Member, Discipline Panel

Lou Watson
Member, Discipline Panel