

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 Richard Knill, a member of the Ontario College of Teachers.

PANEL: Bernard J. Adam, Chair
Janet Cornwall
Jean Hanson

BETWEEN:)	
)	
	)	L. Thomas Forbes, Q.C., McCarthy
ONTARIO COLLEGE OF TEACHERS	)	Tétrault, for Ontario College of
	)	Teachers
- and -)	
	)	Ian J. Fellows, Green & Chercover,
	)	for Richard Knill
)	
RICHARD KNILL	)	The Honourable Lloyd Houlden,
(CERTIFICATE #254914)	)	Retired Judge, Independent Legal
	)	Counsel on April 15, 16, June 17
	)	and 18, 2003
)	
	)	Christopher Wirth, Stockwoods,
	)	Independent Legal Counsel on
	)	November 26, 2003
)	
	)	Heard: April 15, 16, June 17, 18 and
	)	November 26, 2003

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter was heard before a panel of the Discipline Committee on April 15, 16, June 17, 18 and November 26, 2003 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated July 18, 2001 was served on Richard Knill, requesting attendance before the Discipline Committee of the Ontario College of Teachers on July 30, 2001 to set a date for hearing, and specifying the charges. The hearing date was set for April 15 and 16, 2003.

IT WAS ALLEGED that Richard Knill is guilty of professional misconduct or incompetence as defined in sections 30(2) and (3) of 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 physically, sexually, verbally, psychologically or emotionally contrary to Ontario Regulation 437/97, subsection 1 (7);
- (c) he failed to supervise adequately a person or persons who were under his supervision contrary to Ontario Regulation 437/97, subsection 1 (11);
- (d) 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);
- (e) 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);
- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (g) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of his 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.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

2. Richard Knill, (the "Member"), is a member of the Ontario College of Teachers.
3. At all material times, the Member was employed by the Peel District School Board as a secondary school teacher at Bramalea Secondary School ("the School"). The Member taught physical education to male students in Grades 9, 10 and 12. In addition, the Member was the coach of the female wrestling team of the School.
4. At all material times, Student A, whose date of birth is [REDACTED], was a Grade 10 female student at the School. She was also a member of the girls' [REDACTED] team of the School.
5. On or about Thursday, 9 November 2000, Student A was waiting for a ride at the School after [REDACTED] practice had finished when the Member asked her if she wanted to continue to practise [REDACTED] and whether she would prefer to have the lights on or off. She asked that the lights be turned on and the Member did so.
6. On or about Friday, 10 November 2000 the [REDACTED] team was assisting at the commencement exercises of the School, which were being held at Bramalea Baptist Church. The Member who lived near Student A offered to take her to the event.
7. At approximately 7:30 p.m. on 10 November 2000, Student A's mother drove her to the Member's residence and the Member and Student A set off for Bramalea Baptist Church in the Member's vehicle. While driving to the church, the Member started touching and caressing Student A's arm and then started massaging her neck and asked if she liked it. Student A, who was scared, did not answer and the Member then asked if she had ever played a game called "Chicken or Go" to which she replied in the negative.

8. The Member then placed his hand on Student A's collarbone at the front of her neck and asked if she wanted to play. When Student A advised the Member that she did not know that game he told her to say "go" and she said "go". The Member then placed his hand on her right breast on the outside of her clothing and said "Chicken or Go". When Student A said "Chicken", he moved his hand back up her chest to the collarbone area and said "you're not chicken here", referring to her collarbone area. He then moved his hand back to her breast again and started rubbing her breast outside of her clothes. He then removed his hand and put it back on the collarbone area and again asked the question "Chicken or Go". When Student A did not respond, the Member put his hand down her shirt into her bra and rubbed her left breast and caressed it.
9. While the vehicle was stopped at a traffic light, the Member then leaned over, pulled down the front of the student's top and started kissing and licking her left breast. The Member then asked Student A if he had crossed the line and Student A told him that he had already done so. The Member then said "didn't you know that was foreplay?" Student A was scared and nodded her head to mean yes but did not know what foreplay was.
10. The Member then put his hand on the bare skin of her thigh and started moving his hand up her leg under her skirt to the top of her thigh at which time Student A jerked her leg away and asked him if he was mad to which the Member responded "you led me on". When Student A told the Member that she was only 15, he told Student A that some 15-year-olds were like that. Student A told him that she was not like that, as she was a virgin.
11. After arriving at the parking lot of the Bramalea Baptist Church, the Member and Student A were walking towards the church when the Member placed his hand on her buttocks. Student A started walking faster in order to get in view of people who were around and the Member remarked that she would have to ride home with him later than evening. However, Student A left her belongings in the Member's vehicle and found alternate transportation home.

12. On or about 11 November 2000, the Member telephoned Student A at her home to ask if she was fine and to remind her that she had left her belongings in his vehicle. At that time he told Student A that he had been drinking on the previous evening.
13. On the following Monday, 13 November 2000, Student A reported the matter to another teacher, following which, a report was made to the Children's Aid Society.
14. The aforesaid actions of the Member constitute sexual assault and breach of trust with respect to which the Member has been charged to be in contravention of Section 271 and Section 153(a) of the *Criminal Code of Canada*.
15. As a result of the aforesaid actions of the Member, he was removed from the classroom by the aforementioned Peel District School Board.

Publication Ban

On April 15, 2003, the Discipline Committee made an order directing that there be no publication of any information that may disclose the identity of the student(s) involved in this matter.

Member's Plea

Richard Knill admitted the allegations set out in paragraphs numbered (e) and (f) of the *Notice of Hearing*, and as outlined in the *Amended Memorandum of Agreement*, namely that 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 he engaged in conduct unbecoming a

member, contrary to Ontario Regulation 437/97, subsection 1(19), subject to ratification by the Panel of the *Amended Memorandum of Agreement*.

Memorandum of Agreement

After four days of hearings on April 15 & 16, 2003 and June 17 & 18, 2003, Counsel for the College advised the Panel on November 26, 2003, that subject to ratification by the Panel, agreement between the parties had been reached on the facts. A *Memorandum of Agreement* was introduced and later amended. The *Amended Memorandum of Agreement* provides as follows:

1. Richard Knill, (the “Member”), is a member of the Ontario College of Teachers. At all material times, the Member was employed by the Peel District School Board.
2. In 1992, Student B was a 15-year-old female student in Grade 10 whom the Member taught science at Meadowvale Secondary School.
3. As the Grade 10 academic year was concluding, the Member drove Student B alone in his vehicle and kissed her. The Member was interviewed by a police officer who warned the Member with respect to placing himself in circumstances where allegations of inappropriate behaviour may occur.
4. During the fall of 1992, while Student B was a Grade 11 student, the Member drove Student B alone in his car and kissed her.
5. The transcripts of the evidence given by Student B and the Member with respect to the aforementioned paragraphs 2, 3 and 4 were filed. The Member was found not guilty of the charges against him.
6. Student A, whose date of birth is [■], was a Grade 10 female student at Bramalea Secondary School where the Member taught physical education to male and

female students in Grades 9, 10 and 12 and coached the co-educational wrestling team of the school.

7. On 10 November 2000, the Member [■] alone with Student A, a female member of the female [■] team. The Member drove Student A in his motor vehicle to a school function on 11 November resulting in Student A making allegations that the Member had touched her for a sexual purpose.
8. Transcripts with respect to Student A and the Member were filed as Exhibits. The Member was found not guilty of the charges against him.
9. In light of the aforementioned admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct in that the above-mentioned acts and behaviour constitute acts that having regard to the circumstances would reasonably be regarded by members as unprofessional contrary to Ontario Regulation 437/97, subsection 1(18); and, conduct unbecoming a member contrary to subsection 1(19) of the said regulation.
10. The parties submit and request the Committee to impose the following penalty:
 - (a) The Member shall immediately be reprimanded, admonished and counselled by the Committee. The Committee shall direct that the fact of the reprimand, admonishment and counselling be recorded on the Register.
 - (b) The Certificate of Qualification and Registration of the Member shall be suspended for two months.
 - (c) The aforesaid suspension of two months shall be suspended on the condition that the Member:
 - (i) forthwith attend upon and co-operate with a professional person acceptable to the parties and at the expense of the Member, for instruction and reinforcement of boundary issues and report to

the Registrar, a copy of the said report shall be sent forthwith to the Member;

- (ii) forthwith attend upon and co-operate with a psychiatrist satisfactory to the parties, at the expense of the Member, for assessment and for a report and an opinion to the Registrar whether the Member may return to full time classroom teaching duties and whether the Member poses a risk to students and/or the school community, a copy of the said report shall be sent forthwith to the Member;
- (iii) the above items (i) and (ii) are to be completed by March 31, 2004, unless the Committee orders otherwise.

11. Should the parties disagree with respect to the professional person referred to in 10(c)(i) and/or the psychiatrist referred to in paragraph 10(c)(ii), either party may return to this Committee or one differently constituted to identify the aforementioned professional person and/or psychiatrist.
12. Upon receipt of the report referred to in paragraph 10(c)(i) and (ii), either party may return to this Committee, or one differently constituted, to vary the penalty, take issue with the opinion, or seek to vary or eliminate terms, conditions, limitations proposed.
13. Upon successful completion of the assessment and counselling and opinion that the Member does not pose a risk to students and/or the school community, the aforementioned suspension shall not be imposed.
14. The finding and order of the Committee shall be published with the full name of the Member in the official publication of the College.
15. The Member undertakes not to return to the class pending completion of the matters referred to above. This undertaking may be varied by the Committee on notice by the Member.

Decision

Based on the *Amended Memorandum of Agreement* and the guilty plea, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Richard Knill committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (18) and 1 (19).

Penalty

The *Amended Memorandum of Agreement* contains a joint submission as to penalty as set out above.

Both counsel urged the Committee to accept the *Amended Memorandum of Agreement*. It was submitted that the agreement is reasonable, proper and fair for all concerned, protects the public interest and proposes terms, conditions and limitations to be imposed on the Member's certificate of qualification and registration.

Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Amended Memorandum of Agreement* and accordingly orders that the Member appear before the Committee to be reprimanded and admonished, and directs that the fact of the reprimand and admonishment be recorded on the Register.

The Registrar is directed to suspend the certificate of qualification and registration of the Member for a period of two months from the date hereof, November 26, 2003.

However the suspension of the Member's certificate is suspended on condition that the Member:

- (i) forthwith attend upon and co-operate with a professional person acceptable to the parties and at the expense of the Member, for instruction and reinforcement of boundary issues and report to the Registrar, a copy of the said report shall be sent forthwith to the Member;
- (ii) forthwith attend upon and co-operate with a psychiatrist satisfactory to the parties, at the expense of the Member, for assessment and for a report and an opinion to the Registrar whether the Member may return to full time classroom teaching duties and whether the Member poses a risk to students and/or the school community; a copy of the said report shall be sent forthwith to the Member.
- (iii) the above items (i) and (ii) to be completed by March 31, 2004, unless the Committee orders otherwise.

Should the parties disagree with respect to the professional person referred to in (i) and/or the psychiatrist referred to in paragraph (ii), either party may return to this Committee or one differently constituted to identify the aforementioned professional person and/or psychiatrist.

Upon receipt of the report referred to in paragraphs (i) and (ii), either party may return to this Committee, or one differently constituted, to vary the penalty, take issue with the opinion, or seek to vary or eliminate terms, conditions, limitations proposed.

Upon successful completion of the assessment and counselling and opinion that the Member does not pose a risk to students and/or the school community, the aforementioned suspension shall not be imposed.

The Committee accepts the undertaking of the Member not to return to the class pending completion of the matters referred to above. This undertaking may be varied by the Committee on notice by the Member.

Pursuant to Section 30 (5) (iii) of the Ontario College of Teacher's Act, the Committee orders that the findings of this hearing, as well as the name of the Member, be published in the official publication of the Ontario College of Teachers, *Professionally Speaking/Pour parler profession*.

In making this decision to accept the *Amended Memorandum of Agreement*, the Committee finds that the penalty achieves a favourable outcome, both to protect the public interest and remediate the behaviour of the Member.

The Committee also finds that:

- (a) the order meets the objective of general deterrence, in that it serves as a message to the profession to deter members of the profession from engaging in similar misconduct; and
- (b) the order meets the objective of specific deterrence to the Member.

The Committee was not influenced in any way by the fact that this hearing would continue if the *Amended Memorandum of Agreement* was not accepted.

Date: November 28, 2003

Bernard J. Adam
Chair, Discipline Panel

Janet Cornwall
Member, Discipline Panel

Jean Hanson
Member, Discipline Panel