

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against David Christopher Koloff.

The Discipline Committee held a hearing on February 25, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**DAVID CHRISTOPHER KOLOFF
CERTIFICATE #191784**

PRESENT:

Members of the Panel

Guill Archambault (Chair)

Paul Charron

Solette N. Gelberg

The Honourable Patrick T. Galligan, retired judge, Independent Counsel to the Panel

Carole Jenkins, McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk

Josh Phillips, Green and Chercover, Counsel for the member

David Christopher Koloff

This decision is subject to a publication ban. On February 25, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the students involved in this matter.

A Notice of Hearing, dated July 9, 2002, was served on David Christopher Koloff, 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 February 25, 2002.

It is alleged that David Christopher Koloff is guilty of professional misconduct 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 that Act, contrary to Ontario Regulation 437/97, subsection 1(14) and (15);
- (d) he committed acts that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and

- (f) he displayed a lack of knowledge, skill or judgement 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 certificates should be made subject to terms, conditions or limitations.

The Notice of Hearing states that David Christopher Koloff is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On February 25, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether David Christopher Koloff was guilty of professional misconduct.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that David Christopher Koloff is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1 (5), (7), (14), (15), (18) and (19).

Counsel presented evidence that David Christopher Koloff is a member of the Ontario College of Teachers (Exhibit #1). At all material times, the member was employed by the York Region District School Board as a teacher.

An Agreed Statement of Facts and Submissions as to Penalty was filed as Exhibit #2. That statement was dated February 25, 2002 and had been signed by Counsel for the College and Counsel for the member .

The Committee received a copy of THE member 's teaching evaluation from Markham District High School, indicating a general assessment of excellent.

The Committee received a lengthy letter written by the member, himself, in which he explained the situation around his actions and provided details about the upset in his personal life at the time of the incidents. He said in his letter that "it is with the deepest shame and regret that I respond to these complaints."

The Committee also received a letter of reference from the Acting Principal of Assumption College Catholic High School, indicating her belief that David Christopher Koloff is an excellent teacher. She stated that he is one of the five best teachers that she has known in her thirty years in education. The Superintendent of Education, Windsor-Essex Catholic District School Board, stated in her letter of reference, that he is a "born teacher" and that she "would not hesitate to entrust students to his care."

FINDINGS OF FACT:

Based on the Agreed Statement of Facts and Submissions As to Penalty, the panel finds the following facts:

1. David Christopher Koloff is a member of the Ontario College of Teachers.

2. At all material times, the member, whose date of birth is February 15, 1963, was employed as a teacher of English, Grade 9 - OAC at Markham District High School in Markham, Ontario, by the York Region District School Board.
3. The member resigned his position with the Board effective February 1, 1999 to take a position with the Windsor-Essex Catholic District School Board, and is presently employed as a teacher at Assumption Secondary School in Windsor, Ontario.
4. At all material times, [REDACTED], whose date of birth is [REDACTED]; [REDACTED], whose date of birth is [REDACTED]; and [REDACTED], whose date of birth is [REDACTED], (collectively "the students"), were female students of the member at the School.
5. During the 1998-1999 school year, and particularly during the month of October, 1998, the member, while he was alone in the classroom with [REDACTED], made inappropriate remarks to [REDACTED], who was in her OAC year. These included the member:
 - (a) telling [REDACTED] that he felt like he had a connection with her;
 - (b) telling [REDACTED] that perhaps one day they should get together for a drink;
 - (c) telling [REDACTED] that other students would think she was his favourite;
 - (d) telling [REDACTED] that there were only three people in the whole class that were in tune with the class work; and

- (e) telling [] that at times she saved class discussions by her participation and contribution.
6. During the 1998-1999 school year, and particularly during mid-January, 1999, the member, while he was alone in the classroom with [] made inappropriate remarks to []. These included the member:
- (a) telling [] that she was one of the reasons he would want to stay in Markham; and
 - (b) telling [] that he could understand her finding boys her own age immature and her not wishing to go out with them.
7. During the 1998-1999 academic school year, the member made inappropriate remarks to [] who had been a student of the member during the previous school year. These included:
- (a) when [] advised the member that she had visited New York and that her mother and step-father were thinking of moving there, jokingly suggesting that [] take him there as he had never been;
 - (b) after seeing photographs of [] taken at the Spring Semi-Formal, telling [] that if she looked that way in New York, he probably would not be able to control himself;
 - (c) when [] approached the member to discuss personal issues, the member agreed to meet [] for lunch at a local bakery because of anticipated interruptions in the school cafeteria. Another student arrived at the

bakery and was invited to join them. As a result, [REDACTED]'s issues were not fully addressed. The member joked that if there was to be any privacy, they would have to leave the Markham area; and,

(d) using the word "fucking" in conversation with [REDACTED]

8. During the 1998-1999 academic school year, and particularly on or about 27 January, 1999, [REDACTED] met with the member in his office to say goodbye to him. The member then made inappropriate remarks to [REDACTED] which included:

(a) telling [REDACTED] that if he were 18 years old he would be in love and lusting after her; and telling [REDACTED] that these feelings would hold true for other students as well;

(b) repeating to [REDACTED] a comment made about her "butt" by another student on the day the member first met [REDACTED];

(c) telling [REDACTED] about a dream he had in which the member and [REDACTED] were hugging;

(d) telling [REDACTED] and other students that even though he was married he did not see anything wrong with touching or kissing another woman but not going any further than that; and

(e) just prior to his leaving Markham, [REDACTED] gave the member a drawing she had done for him and a note, including her address and telephone number and inviting him to do the same so that they could keep in touch.

9. During the 1998-1999 academic school year and particularly during November 1998, the member, while speaking with [] alone in a classroom, made inappropriate remarks to [] who was then a Grade 12 student. These included:
- (a) the member expressed concern regarding a dramatic loss of weight on the part of [] and observed that she did not have the same body type as she had in Grade 11. The member did inquire of [] why she had lost so much weight and may have expressed some concern about anorexia;
 - (b) the member did hug [] briefly in a non-sexual manner and with []'s consent. This made [] uncomfortable; and,
 - (c) the member told [] that he had a connection with her.
10. The member has co-operated with the College and accepts that his behaviour with the students was inappropriate, unacceptable, and constitutes professional misconduct.
11. At the material times, the member was experiencing emotional stress, occasioned by his recent marriage and wife's illness, a falling out with certain colleagues and his and his wife's decision to move from Markham to the Windsor area. The member acknowledges that his judgement was impaired during this period and that he made inappropriate remarks to some students. The member recognizes that his relationships with students had been too close.

12. The member has not contacted any of the students involved since his departure from Markham in February 1999, other than to respond to a note from [] discussed in paragraph 8(e) above.
13. Since the events forming the basis of this complaint, the member has suffered through a number of difficulties in his personal life, including moving his family to Windsor and his wife's deepening battle with serious depression and gynecological surgery.
14. Notwithstanding these stressors, the member has not engaged in any inappropriate behaviour and remains an extraordinary educator, with the full support of his administration.

DECISIONS AND ORDERS:

Based on the Agreed Statement of Facts and Submissions as to Penalty, and having examined the exhibits filed, the Committee finds David Christopher Koloff guilty of professional misconduct under subsection 1 (19) of the Professional Misconduct Regulation, as alleged. The Discipline Committee directs that:

- 1) The member be reprimanded, admonished and counselled by the Discipline Committee.
- 2) The member shall attend, no later than August 31, 2002, at his own expense, counselling related to boundary issues. Such counselling shall be obtained from a person acceptable to the Registrar and that person shall report to the Registrar upon successful completion of such counselling.

David Christopher Koloff did appear before the Discipline Committee on February 25, 2002. A verbal reprimand was issued on that date to stress to the member the unacceptability of his behaviour as a teacher and as a specific deterrent to him.

Pursuant to section 30(5)(iii) of the Ontario College of Teachers 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*.

**DATED AT TORONTO, THIS 13TH DAY OF MARCH, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE**

Guill Archambault, **Chair**

Paul Charron

Solette N. Gelberg