

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

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

**AND IN THE MATTER OF** discipline proceedings against John Edwin MacDonald.

The Discipline Committee held a hearing on April 23, 2001,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**JOHN EDWIN MACDONALD  
CERTIFICATE # 235074**

**PRESENT:**

Members of the Panel

Bernard Adam (Chair)

Nancy Hutcheson

Janet Cornwall

The Honourable Patrick Galligan, Independent Counsel to the Panel

L. Thomas Forbes, Q.C., McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Sally Bryant

D. Stephen Jovanovic, Bartlet & Richardes LLB, Counsel for the member

John Edwin MacDonald

This decision is subject to a publication ban. On April 23, 2001, the Discipline Committee made an order directing that there may be no publication of any information that may disclose the identity of the students involved in this case.

A Notice of Hearing, dated September 11, 2000 was served on John Edwin MacDonald (herein known as John MacDonald), requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 16, 2000 to set a date for hearing, and specifying the charges. A hearing date was set for April 23, 2001.

The Notice of Hearing states that John Edwin MacDonald is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit #1).

It is alleged that John Edwin MacDonald 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 students physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act or the Regulations made thereunder or the by-laws thereto, contrary to Ontario Regulation 437/97, subsection 1(14);
- (d) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2 and particularly s.264(1)(c) thereof, or the Regulations made under the Act, contrary to Ontario Regulation 437/97, subsection 1(15);

- (e) he performed an act on several grade [ ] students, namely asking them to remove their pants and underwear and to bend over, which he knew or ought to have known would violate the rights, dignity and respect of the said students to suffer humiliation and embarrassment;
- (f) he performed acts or omissions 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 judgement and/or a disregard for the welfare of a student or 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.

On April 23, 2001, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether John Edwin MacDonald was guilty of professional misconduct.

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that John Edwin MacDonald 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).

Particulars of the alleged misconduct are set out in Exhibit #1 and they are to the effect that:

1. John Edwin MacDonald is a member of the Ontario College of Teachers.
2. At all material times, the member was employed as a vice-principal at the said school.
3. On Friday, December 4, 1998, at the conclusion of the first period, a student in a grade [ ] gym class, [ ], reported to a teacher that \$90.00 had been stolen from his gym bag which had been left, during the lesson, in the locked gym change room.
4. The teacher went into the change room, where the students from the grade [ ] class were changing, told those students about the missing money and asked if anyone knew anything about it. Some of the students accused student [ ] of taking the money. The teacher said that he would give the students the opportunity to return the money without consequences, treating the incident as a joke and left the students in the locked change room.
5. The teacher returned to the locked change room some little while later to learn that the money had not been returned and advised the students that he would have to call the Vice-Principal, John MacDonald, who would do a strip search of the students and have them “spread your cheeks and bend over” or “check your cracks” or check your crevice”.

6. The teacher then left the student [REDACTED] in the locked change room with the other students and returned a short while later with the Vice-Principal, John MacDonald.
7. John MacDonald then spoke to the “key man”, student [REDACTED], who was responsible for locking the change room for the duration of the lesson, who told him that one of the students, [REDACTED], had remained in the change room after the other students had started class and that he had had to unlock the change room to allow student [REDACTED] to leave, after the lesson had started.
8. John MacDonald arranged for another teacher to cover the first teacher’s second period and the first teacher or John MacDonald or both of them decided that they would proceed to strip and search the students individually.
9. While the grade [REDACTED] students were instructed to remain in the change room, the teacher and the Vice-Principal commenced an individual search of each student in the gym office, commencing with the loser of the money, student [REDACTED]. Sixteen of the nineteen students in the class were instructed to remove their pants and underwear and to bend over in the sight and presence of the teacher and John MacDonald, including students [REDACTED] and [REDACTED], while one or both of the teacher or John MacDonald searched the students clothes, shoes and gym bags. In respect to student [REDACTED], the teacher and/or the Vice-Principal also searched [REDACTED] locker.
10. When student [REDACTED] refused to remove his underwear or asked what would be the consequences of that failure, John MacDonald told the said student that he would receive a one month suspension from school.

11. During the course of the afternoon of Friday, December 4, 1998, at the direction of his principal, John MacDonald called and spoke with some of the parents of the grade [ ] students involved in the searches and apologized for his actions.
12. The aforesaid activities of John MacDonald are public knowledge through extensive national media coverage of the aforesaid events and media interviews conducted with some of the affected students.
13. The aforesaid activities and the publicity resulting from the extensive media coverage and the communication within the general public has resulted in a reputation and image inconsistent with that expected of a member and has, thereby, rendered John MacDonald unable or unfit to discharge the duty of a member to the public, students and to their employer.
14. On Monday, December 7, 1998, the member was ordered by the Board of Education not to have any student contact and the Board's Superintendent of Schools apologized to the students, as did John MacDonald who informed them that he had made a "bad call" and exercised "bad judgement".
15. On Thursday, December 10, 1998, at a special meeting of the Greater Essex County District School Board, the member, John MacDonald, was suspended without pay for 10 teaching days, effective immediately and demoted from Vice-Principal to teacher.
16. On or about December 10, 1998, the said Board issued a press release expressing regret for the actions of John MacDonald and offering a sincere apology to the students, parents and community.

An Agreed Statement of Facts, dated April 18, 2001, was filed as Exhibit #2. That statement had been signed by the member, counsel for the Ontario College of Teachers and a witness to the member's signature.

Defense Counsel presented a Document Brief of John Edwin MacDonald which was filed as Exhibit #3. This document contained a resumé of the member as well as testimonials to the member's character by colleagues and parents.

### **FINDINGS OF FACT:**

Based on the Agreed Statement of Facts, the panel finds the following facts:

- (1) John Edwin MacDonald is a member of the Ontario College of Teachers.
- (2) At all material times, the member was employed by the Greater Essex County District School Board as Vice-Principal at [REDACTED].
- (3) During the 1998-1999 school year and particularly in December of 1998, [REDACTED] and [REDACTED] were [REDACTED] students at the school.
- (4) At approximately 0935, the member received a communication from a teacher that [REDACTED], a student in the physical education class of that teacher, had reported that there was \$90.00 missing from his belongings.
- (5) It was the judgement of John MacDonald and that teacher that the missing funds could only have been taken by a student in the same class as [REDACTED]. As a result, the students, including the above-mentioned, were asked to remain in the change room of the school.

- (6) John MacDonald and the teacher decided to conduct an immediate investigation and search of the above-mentioned students and their belongings.
- (7) John MacDonald and the teacher then proceeded to conduct an investigation including a search of nine of the aforementioned by means of a search involving each of the above-mentioned being required to submit to the search by means of allowing their underclothing to drop to the floor, to turn around and to pull up their underclothing during the course of which their buttocks, genitals and underclothing were viewed by John MacDonald and the teacher to determine whether the missing funds were in possession of any of the above-mentioned students. The search comprised one and one-quarter hours. During the searches, the students did have one item of clothing on, either their top or their bottom undergarment.
- (8) The Principal, Mr. Schen, arrived during the course of the investigation and was advised that a search of the students was taking place and left without observing the searches.
- (9) As a result of this incident, John MacDonald was suspended for 10 days, transferred to another school and was demoted and/or lost his position as vice-principal.
- (10) John MacDonald has co-operated with the Board and with the College and accepts that the above-stated facts in the preceding paragraphs constitute professional misconduct and the member hereby pleads guilty to professional misconduct contrary to Ontario Regulation 437/97, subsections 1(5) and (19).

- (11) In light of the admitted facts and circumstances, the Ontario College of Teachers and the member submit that the Discipline Committee find the member guilty of professional misconduct and jointly submit the penalty to be as follows:
- (a) that the member be suspended for the time suspended to date, being 10 days;
  - (b) that the member shall attend upon a mutually agreeable person approved by the Registrar to counsel the member with respect to discipline, management and boundary issues arising from the facts comprising the plea of guilty at the expense of the member, and that the aforesaid mutually agreed person report to the Registrar when such counsel has been successfully completed;
  - (c) the member shall be admonished and counselled by the Committee;
  - (d) the final Order of the Committee and the Reasons shall be published in the official publication of the Ontario College of Teachers, "Professionally Speaking".

#### **DECISIONS AND ORDERS:**

The Committee finds John Edwin MacDonald guilty of professional misconduct under subsections 1(5) and (19) of the Professional Misconduct Regulation, as alleged. The Discipline Committee directs the Registrar to impose the following penalty:

- (a) that the member be suspended for the time suspended to date, being 10 days;
- (b) that the member shall attend upon a mutually agreeable person approved by the Registrar to counsel the member with respect to discipline, management

- and boundary issues arising from the facts comprising the plea of guilty at the expense of the member, and that the aforesaid mutually agreed person report to the Registrar when such counsel has been successfully completed;
- (c) the member shall be admonished and counselled by the Committee. That admonishment will be recorded on the Register for a period of two years as of the date of this decision; and
- (d) the final Order of the Committee and the Reasons shall be published in the official publication of the Ontario College of Teachers, "Professionally Speaking".

**DATED AT TORONTO, THIS 30th DAY OF APRIL, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Bernard J. Adam, **Chair**

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Nancy Hutcheson

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Janet Cornwall