

**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 William Magda.

The Discipline Committee held a hearing on May 15, 2002,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**WILLIAM MAGDA  
CERTIFICATE #155363**

**PRESENT:**

Members of the Panel

Bernard Adam (Chair)  
Sterling Campbell  
Karen Mitchell

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

Carole Jenkins, McCarthy Tétrault LLB, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Dean Paquette, Lamonte Paquette, Counsel for the member, was not in attendance.

William Magda was not in attendance.

This decision is subject to a publication ban. On May 15, 2002, the Discipline Committee made an order directing that the finding and Order be published in the College's official publication, *Professionally Speaking/Pour parler profession*, using only the initials of the students and teachers and without naming the school or the board, so as to preserve the identity of all but the member.

A Notice of Hearing dated June 30, 2001, was served on William Magda, requesting attendance before the Discipline Committee of the Ontario College of Teachers on July 20, 2001, to set a date for hearing, and specifying the charges. The hearing date was set for May 15, 2002.

It is alleged that William Magda 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 *Education Act*, Revised Statutes of Ontario, 1990, chapter E. 2 and particularly section 264 (1) (c) thereof or the Regulations made thereunder, contrary to Ontario Regulation 437/97, subsection 1 (15);
- d) he contravened a law or laws and that contravention is relevant to his suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1 (16);
- e) he contravened a law and that contravention has caused or may cause a student who is under his professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1 (17);

- f) he performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as being 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 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.

The Notice of Hearing states that William Magda is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On May 15, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether or not William Magda was guilty of professional misconduct.

William Magda was not in attendance at the hearing, however, he was represented by counsel.

The member's counsel was not present for the hearing. Counsel agreed that the Agreed Statement of Facts and Guilty Plea could be presented by College counsel in his absence. Proof of service of the Notice of Hearing was presented and accepted by the panel.

## EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that William Magda 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), (15), (16), (17), (18), (19).

Counsel presented evidence that William Magda is a member of the Ontario College of Teachers (Exhibit #1). At all material times, the member was employed by the [REDACTED] School Board as a teacher.

An Agreed Statement of Facts and Guilty Plea was filed as Exhibit #2. That statement had been signed by both counsel and was dated May 14, 2002.

Particulars of Agreed Statement of Facts and Guilty Plea include:

1. At all material times, the member, whose date of birth is March 29, 1952, was employed by the [REDACTED] School Board as a physical education teacher at the [REDACTED] School.
2. From in or about early fall of 1996, through to the late fall of 1998, the member engaged in inappropriate touching behaviour with a number of female Grade 8 students at the school. Such behaviour included:
  - (a) hugging [REDACTED], a 14-year old who assisted the member in cleaning and organizing the gymnasium, his office and equipment; placing his hands around her waist; and tickling her stomach above her belly button;

- (b) hugging [REDACTED], a 13-year old Grade 8 student who volunteered to assist with various chores. On one occasion, while showing [REDACTED] how to fill volley balls, the member demonstrated how to do so by instructing her to hold the volley ball with her two hands at chest level, and then placed his fingers above her breasts, pressing and releasing them at least three times. The member told [REDACTED] that pushing the volley balls in this manner created muscles in that area;
  - (c) hugging [REDACTED], an 11-year old from behind, and tickling her stomach. Despite [REDACTED]'s advice to the member that such tickling was not okay, he continued to tickle her, on one occasion for approximately five minutes.
  - (d) hugging and tickling [REDACTED], a 12-year old Grade 6 student. Once, when the member tickled her while she was on the floor and he was kneeling beside her, [REDACTED] kicked the member because he would not stop his tickling of her.
3. On December 18, 2000, the member was convicted on four accounts of common assault under s. 265(1) (a) and contrary to s. 266 of the *Criminal Code of Canada* in relation to [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. On February 14, 2001, the member was sentenced to a conditional discharge and, *inter alia*, to remain on probation for one year.
4. The member also made inappropriate advances of a sexual nature towards female teachers at the school, as set out below:
- (a) [REDACTED], a teacher at the school, was often grabbed by the arm by him; was often asked for a hug; was teased by the member who said to her "(using her nickname) doesn't like me to touch her"; was hugged by the member at a staff party at the house of another teacher, and while hugging her, the member put his hand on her left buttock. On one occasion when [REDACTED] entered the school library using a key to let herself in and believing that she was alone, the member, who was in the library said to her, "You owe me a

hug". [REDACTED] replied that she owed him nothing, and she left the library. At a party at his house, the member put his hand between [REDACTED]'s legs, over her bathing suit, as she negotiated her way over to enjoy the water jets on her back while in the hot tub with other partygoers.

(b) [REDACTED], another teacher at the school who became involved with the sports program, had the member approach her requesting that she give him "just one hug" or "just one kiss". The member also attempted to pull her close to him and [REDACTED], who resisted his advances, told him that his actions were inappropriate. The member began making very personal comments about her body, particularly her legs, his comments becoming more descriptive over time and including the statement, "I bet you have really hard nipples".

5. The member was assigned to home, with pay, on December 7, 1998, and has not been returned to teaching duties since that date. On November 21, 2001, the member was dismissed from his position with the Board.
6. On April 8, 2002, the member pleaded guilty to two counts of Level 1 assault as against [REDACTED] and [REDACTED]. The member received a suspended sentence and was placed on probation for eighteen months.

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

Based on the Agreed Statement of Facts and Guilty Plea, and having examined the exhibits filed, the Committee finds William Magda, Certificate of Registration #155363, guilty of professional misconduct under sections 1 (5), (7), (15), (16), (17), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to immediately revoke the Certificate of Qualification and Registration of the member.

The Committee also directs that the finding and order of the Committee be published, with the name of the member, in the official publication of the College, "*Professionally Speaking/Pour parler profession*", using only the initials of the students and teachers, and without naming the school or the board so as to preserve the identify of all but the member.

**DATED AT TORONTO, THIS 16th DAY OF SEPTEMBER, 2002  
BY ORDER OF THE DISCIPLINE COMMITTEE**

---

Bernard Adam, **Chair**

---

Sterling Campbell

---

Karen Mitchell