

**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 Shawn Clifton Daniel Mann, a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair
 Don Cattani
 Lynne Mastin

BETWEEN:	)	Carole Jenkins,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Heather Meredith
)	
- and -)	
)	
SHAWN CLIFTON DANIEL MANN	)	Shawn Clifton Daniel Mann
(CERTIFICATE # 191499)	)	appeared on his own behalf on
	)	March 21, 2005
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: January, 10 & 11, 2006,
	)	March 20, 21 & 29, 2006

PENALTY DECISION

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 10 & 11, 2006, March 20, 21 & 29, 2006 at the Ontario College of Teachers (“the College”) at Toronto.

On October 11, 2006, the Committee found the Member guilty of professional misconduct and issued its decision and written reasons for the decision. The parties were asked to provide any written submissions with respect to penalty within 10 days of this date.

The Committee had not received any submissions from the Member with respect to penalty within the 10 days.

On April 24, 2006, the Committee received the following written submission as to penalty from College Counsel:

The Ontario College of Teachers submits that the appropriate penalty to be imposed by the Discipline Committee in this matter would be to:

- (a) require the Member to attend before a Panel of the Discipline Committee for a reprimand;
- (b) direct the Registrar of the Ontario College of Teachers to suspend the Member's certificate of qualification and certificate of registration on the date that the Decision and Order of the Discipline Committee is signed, for a period of three (3) months;
- (c) direct the Registrar to impose the following terms, conditions or limitations on the Member's certificate of qualification and registration, the fact of such terms, conditions and limitations to be recorded on the Register until such time as they are fulfilled, and the Member makes application to have them removed under Section 33(2) of the *Ontario College of Teachers Act, 1996*:
 - (i) that the Member enrol, at his own expense, in a program of study and/or counselling concerning appropriate student/teacher boundaries and classroom management, such program(s) to be determined at the sole discretion of the Registrar;
 - (ii) that upon completion of the program(s), the Member shall provide to the Registrar such evidence of successful completion as the Registrar

requires, within thirty (30) days of their completion, and the Registrar shall have sole discretion to determine whether the program(s) has been successfully completed;

(iii) that the Member shall complete the program(s) of study and counseling within 6 months of the Decision of this Discipline Committee; and,

(d) that the Decision of this Discipline Committee, and its findings, be published, in summary, along with the full name of the Member, in the official publication of the Ontario College of Teachers.

On October 23, 2006, the Committee received further submissions on penalty from College Counsel based on the Committee's written decision. College Counsel amended their previous submission, stating that:

Given the Panel's finding that there was insufficient evidence with respect to the allegations of inappropriate comments in class, the College no longer seeks a penalty involving completion of a classroom management course.

College Counsel presented its amended position with respect to an appropriate penalty:

It is the position of the College that the appropriate penalty in this case is: a reprimand; a three-month suspension; a requirement that the Member participate in and successfully complete, at his own expense, a course, approved by the Registrar, in boundary issues; and, that the finding be published in summary with the Member's name.

The Committee makes the following order as to penalty:

(a) the Member is to be reprimanded by the Committee and the fact of the reprimand is to be recorded on the Public Register;

- (b) the Registrar is directed to suspend the Member's certificate of qualification and certificate of registration on the date that the Decision and Order of the Discipline Committee is signed, for a period of one (1) month;

- (c) the Registrar is directed to impose the following terms, conditions or limitations on the Member's certificate of qualification and registration, the fact of such terms, conditions and limitations to be recorded on the Register until such time as they are fulfilled, and the Member makes application to have them removed under Section 33(2) of the *Ontario College of Teachers Act*, 1996:
 - (i) that the Member enroll, at his own expense, in a program of study and/or counselling concerning appropriate student/teacher boundaries, such program to be determined at the sole discretion of the Registrar;

 - (ii) that upon completion of the program(s), the Member shall provide to the Registrar such evidence of successful completion as the Registrar requires, within thirty (30) days of their completion, and the Registrar shall have sole discretion to determine whether the program(s) has been successfully completed;

 - (iii) that the Member shall complete the program(s) of study and counseling prior to returning to the classroom; and

- (d) 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, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Penalty Decision

The Member admitted to making an appalling sexual comment concerning a student in the company of other students. Although there were many particulars cited in the allegations contained in the Notice of Hearing of other inappropriate comments and actions by the Member, the Committee found that only one was proven with clear, cogent and convincing evidence.

By ordering a reprimand and a suspension, placing terms and conditions on the Member's certificate and ordering publication, in summary, of the decision, with the Member's name, the Committee recognizes that the Member's actions were disgraceful, dishonourable and unprofessional and warrant a significant penalty.

Had all of the allegations been proved, the penalty requested by the College may have been appropriate. However, given that the Member was not found guilty of all allegations contained in the Notice of Hearing, the Committee finds that a one-month suspension, in conjunction with the other sanctions, is reasonable and appropriate, and will serve the public interest.

The reprimand and the suspension will serve as a specific deterrent to the Member and will impress upon him that his conduct is not tolerated by the profession. The terms and conditions imposed upon the Member's certificate, specifically the boundaries course, will help to rehabilitate him and provide him with positive direction to continue his career.

The committee finds that publication of this decision will serve as a general deterrent to the profession, illustrating a clear example of unprofessional conduct.

Date: October 27, 2006

Nancy Hutcheson
Chair, Discipline Panel

Don Cattani
Member, Discipline Panel

Lynne Mastin
Member, Discipline Panel