

**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 Catherine Marcon, a member of the Ontario College of  
Teachers.

PANEL: Diane Leblovic, Chair  
Paul Charron  
Rosemary Fontaine

BETWEEN:	)	
	)	Jane Langord, McCarthy
	)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS	)	Teachers, assisted by Jennifer
	)	Robinson, Law Clerk
- and -	)	
	)	
SHAWN CATHERINE MARCON	)	David Bloom, Cavalluzzo Hayes
(CERTIFICATE #417945)	)	Shilton McIntyre & Cornish,
	)	for Shawn Catherine Marcon
	)	
	)	Christopher Wirth, Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: December 3, 2003

**REASONS FOR DECISION, DECISION AND ORDER(S)**

This matter came on for hearing before a panel of the Discipline Committee on  
December 3, 2003 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing* dated April 28, 2003 was served on Shawn Catherine Marcon, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 15, 2003 to set a date for hearing, and specifying the charges. The hearing date was set for December 3, 2003.

### The Allegations

The allegations in the Notice of Hearing include allegations of both professional misconduct and incompetence against the Member. The allegations arose as a result of the Member employing negative reinforcement as a classroom management technique while she was a [ ] teacher, during the period September 2000 to January 2002.

**IT WAS ALLEGED** that Shawn Catherine Marcon is guilty of professional misconduct and/or is incompetent as defined in sections 30(2) and (3) of the Act, in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1 (5);
- (b) she abused a student or students physically, sexually, verbally, psychologically or emotionally contrary to Ontario Regulation 437/97, subsection 1 (7);
- (c) she failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario, 1990, Chapter E. 2 and particularly section 264 (1) (c) thereof, and the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (d) she 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);

- (e) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19); and
- (f) she displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of her students of a nature or extent that demonstrates that the member is either unfit to carry out her professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

### Member's Plea

The Member pleads guilty to the allegations of professional misconduct against her, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (15) and (19) as set out in the *Notice of Hearing*.

### Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced an *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, (Exhibit 2) which provides as follows:

1. Shawn Catherine Marcon ("the Member") is a Member of the Ontario College of Teachers. The Member's status of registration was filed in Exhibit 2, Attachment "A".
2. At all material times, the Member was employed by the Sudbury Catholic District School Board ("the Board") and was a [REDACTED] teacher at Corpus Christi Separate School ("the School").
3. From time to time in the period September 2000 to January 2002, the Member employed negative reinforcement as a classroom management and teaching

technique. Specifically, the Member inappropriately singled out certain students in connection with their conduct, behavioural weaknesses and limitations.

4. As a result of the Member's conduct, certain students experienced embarrassment, unhappiness and discomfort.
5. Furthermore, some of the parents of the Member's students were upset at the Member's approach to classroom management and raised their concerns with the School administration and the Board.
6. Following investigation, the Board acknowledged the frequency of the parental complaints but concluded that the allegations had been adequately addressed at the school level and recommended no disciplinary action.
7. By this document, the Member accepts that the matters referred to in paragraphs 3 and 4 above constitute conduct which fails to meet the standards of the profession and is unbecoming of a Member of the profession and pleads guilty to the allegations of misconduct against her, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (15) and (19) as set out in the Notice of Hearing, and filed as Exhibit 1 and Attachment "B" in *Agreed Statement of Facts* (Exhibit 2).
8. By this document, the Member states that this guilty plea was made voluntarily, unequivocally and with the benefit of independent legal counsel. The Member acknowledges that she has waived her right to require the College to prove the case against her and her right to have a hearing.
9. 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 that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:
  - (a) requires the Member to appear before the Committee to be reprimanded, and that the fact of the reprimand be recorded on the Register;

- (b) directs the Registrar to impose the following terms and conditions on the Member's certificate of registration, said terms and conditions to be recorded on the Register until said conditions are met or until such time as the Discipline Committee has imposed an alternative penalty:
- (i) the Member agrees and undertakes to enrol in and complete, at her own expense, a course of study, approved by the Registrar, in classroom management and positive classroom discipline. The Member shall deliver directly to the Registrar proof of the successful completion of said course within one (1) year from the date of this Order;
  - (ii) the Member agrees to make a written request within 30 days of the date of this Order to her employer school board for a written undertaking to conduct two consecutive Teacher Performance Appraisals of the Member within a year of the date of this Order and to provide forthwith the Registrar with a copy of said written request and the undertaking received in response;
  - (iii) the Member agrees and undertakes to advise the Registrar immediately should the request to the employer school board not be granted;
  - (iv) the Member agrees and undertakes that the Teacher Performance Appraisal reports be forwarded to the Registrar of the College immediately upon completion, but in any event, by December 3, 2004;
  - (v) the Member agrees and undertakes that should the Member commence employment at another school or school board at any time during the year following the date of this order, the above terms and conditions will apply with equal force and effect;

- (vi) the Member agrees and undertakes to immediately inform the Registrar of any formal disciplinary action arising from inappropriate discipline of students within one (1) year of the date of this Order;
  - (vii) The Member agrees and undertakes that if the said terms and conditions set forth in paragraph (i) to (vi) above are not met, this matter will be referred back to the Discipline Committee, or any panel thereof, on notice to the Member, for the imposition of an appropriate penalty;
- (c) the Member agrees that the Registrar shall advise the Board of the terms of this Order and shall request the Board to assist the Member in undertaking the Teacher Performance Appraisals referred to in paragraph (b)(ii) above.
10. By this document, the Member acknowledges her understanding that any agreement between the College and defence counsel with respect to penalty proposed does not bind the Discipline Committee.
11. The parties acknowledge that there has been no agreement respecting publication and that the College will seek an order for publication of the findings and order of the Discipline Committee in the official publication of the College *Professionally Speaking/Pour parler profession*, with identification of the Member by full name and by the school Board, which application will be opposed by the Member.

### Decision

Based on the guilty plea, the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that

Shawn Catherine Marcon committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(15) and 1 (19).

### Penalty

The *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty* contains a joint submission as to penalty as set out above.

The Committee received submissions from both counsel with respect to publication of the Member's name which was not expressly dealt with in the joint submission.

Counsel for the College provided arguments for publication of the Member's name. She stated that full publication demonstrates that the College is fulfilling its mandate in serving and protecting the public interest. She indicated that it is important to communicate to the public that the Committee addresses disciplinary matters in a clear and transparent manner. She further stated that publication is consistent with the College's mandate to provide ongoing education of its members.

Defence Counsel asked the Committee not to publish the name of the Member or her employer school board. He urged the Committee to consider the following: the nature of the conduct, the nature of the sanction to be imposed, any penalty or sanction which has already resulted in action taken by the employer or imposed by circumstances, and whether the public interest required specific identification in all circumstances. He further requested, that in these circumstances and given the nature of the sanction,

which was remedial, rather than punitive, that the Committee exercise its discretion to not publish the name of the Member.

### Penalty Decision

The Committee accepts the joint submission as to penalty as set out in the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty* and accordingly:

- (a) orders that the Member appear before the Committee to be reprimanded, and directs that the fact of the reprimand be recorded on the Register;
- (b) directs the Registrar to impose the following terms and conditions on the Member's certificate of qualification and registration, said terms and conditions to be recorded on the Register until said conditions are met or until such time as the Discipline Committee has imposed an alternative penalty:
  - (i) the Member agrees and undertakes to enrol in and complete, at her own expense, a course of study, approved by the Registrar, in classroom management and positive classroom discipline. The Member shall deliver directly to the Registrar proof of the successful completion of said course within one (1) year from the date of this Order;
  - (ii) the Member agrees to make a written request within 30 days of the date of this Order to her employer school board for a written undertaking to conduct two consecutive Teacher Performance Appraisals of the Member within a year of the date of this Order and to provide forthwith the Registrar with a copy of said written request and the undertaking received in response;

- (iii) the Member agrees and undertakes to advise the Registrar immediately should the request to the employer school board not be granted;
  - (iv) the Member agrees and undertakes that the Teacher Performance Appraisal reports be forwarded to the Registrar of the College immediately upon completion, but in any event, by December 3, 2004;
  - (v) the Member agrees and undertakes that should the Member commence employment at another school or school board at any time during the year following the date of this order, the above terms and conditions will apply with equal force and effect;
  - (vi) the Member agrees and undertakes to immediately inform the Registrar of any formal disciplinary action arising from inappropriate discipline of students within one (1) year of the date of this Order;
  - (vii) The Member agrees and undertakes that if the said terms and conditions set forth in paragraph (i) to (vi) above are not met, this matter will be referred back to the Discipline Committee, or any panel thereof, on notice to the Member, for the imposition of an appropriate penalty;
- (c) the Member agrees that the Registrar shall advise the Board of the terms of this Order and shall request the Board to assist the Member in undertaking the Teacher Performance Appraisals referred to in paragraph (b)(ii) above.

The Committee carefully considered submissions by counsel as to publication of the member's name and concluded that publication fulfills the College's mandate in

protecting the public interest. Publishing members' names serves as a general deterrent to the profession as a whole, acts as a specific deterrent to the Member, and demonstrates that disciplinary proceedings and decisions are open and transparent.

The Committee concludes that publishing members' names contributes to maintaining high professional standards and builds public confidence in the profession.

Accordingly, 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 summary in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession.*

Date: December 3, 2003

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Diane Leblovic  
Chair, Discipline Panel

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Paul Charron  
Member, Discipline Panel

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Rosemary Fontaine  
Member, Discipline Panel