

**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 Ian Scott McCuaig, a member of the Ontario College of Teachers.

PANEL: John Tucker
 Rosemary Fontaine
 John Wells

BETWEEN:)	
	)	Heather Meredith,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
IAN SCOTT MCCUAIG	)	Ian Scott McCuaig,
(CERTIFICATE #461726)	)	on his own behalf
)	
	)	Scott Hutchison,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: March 25, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) March 25, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated December 12, 2007, was served on Ian Scott McCuaig, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on January 30, 2008 to set a date for a hearing and specifying the charges. The hearing was subsequently set for March 25, 2008. Ian Scott McCuaig was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Ian Scott McCuaig in the *Notice of Hearing*, (*Exhibit 1*) dated December 12, 2007 are as follows:

IT IS ALLEGED that Ian Scott McCuaig is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), 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, or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (d) he 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); and

(e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on March 25, 2008, College counsel sought to withdraw the following allegations of professional misconduct contained in the *Notice of Hearing*: breaches of Ontario Regulation 437/97, subsections 1(7), 1(14) and 1(15). The Committee authorizes the College to withdraw these allegations.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty (ASF – Exhibit 2)*.

The Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty provides as follows:

1. Ian Scott McCuaig (the “Member”) is a member of the Ontario College of Teachers. The Member holds an Interim Certificate of Qualification which has been suspended for non-payment of fees as of April 28, 2006. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information with respect to the Member.
2. The Member was employed as a teacher at [■] (the “School”), [■], an independent school for female students, from approximately September 2002 to June 2004. The Member was then employed at other independent schools from September 2004 to June 2006 and has not taught since that time.

3. Between the approximate years of 1998 to 2005 the Student was a student at the School. The Member [■] while she was in [■] during the 2002-2003 and 2003-2004 academic years, respectively.
4. In or around May 2004, the Member entered into an unprofessional personal relationship with the Student, which continued until approximately February 2005.
5. That unprofessional relationship included the Member:
 - (a) failing in or around June 2004, to notify, in a timely manner, the Student's parents or the administrators of the School that the Student was suffering from an eating disorder which was affecting her health;
 - (b) encouraging the Student to confide in and depend on him prior to encouraging her to seek other help;
 - (c) inviting the Student to meet with him after the end of the school year at a mall and at the School to discuss her illness. All meetings occurred in public places in plain sight of other adults;
 - (d) inviting the Student, with the full knowledge of her parents, to be a guest of his spouse and himself when they went on sightseeing and other trips to downtown Toronto; and
 - (e) engaging in physical contact with the Student which included hugging or kissing on the forehead as a greeting. All physical contact with the Student was in the presence of other adult females and in public places.
6. The Member also acted unprofessionally towards the Student in that between approximately 2004 and 2005, he engaged in several inappropriate electronic and telephone communications with her. Attached and marked as **Exhibit "B"** is a printout of instant messages between the Member and the Student, from approximately May 22, 2004 to July 9, 2004, which printout has been provided by the Student. References to the Member's improper conduct with respect to the

Student in discussing her illness are particularly to be found on pages 15, 17-21, 28-41, and 44-102 of the printout.

GUILTY PLEA

7. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 6 above (the “admitted facts”).
8. The Member hereby acknowledges that the admitted facts and exhibits referred to in paragraphs 4 to 6 above, constitute conduct which is unprofessional and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97 1(5), 1(18), and 1(19).
9. By this document the Member states that:
 - (a) he understands fully the nature of the allegations against him;
 - (b) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him, and the right to have a hearing;
 - (c) he voluntarily decided to plead guilty; and
 - (d) he understands and acknowledges that he is executing this agreement voluntarily, unequivocally and without the benefit of legal counsel.
10. 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.

JOINT SUBMISSION ON PENALTY

11. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:

- (a) directs the Member to attend before the Committee, immediately following the hearing of this matter, to be reprimanded, and the fact that the reprimand was delivered be recorded on the public register of the Ontario College of Teachers;
- (b) directs the Member to enrol in and complete, at his own expense, prior to September 24, 2008, a course of instruction, pre-approved by the Registrar, regarding professional boundaries and ethics in the profession and the Member shall provide to the instructor of said course a copy of the agreed facts set out in paragraphs 1 to 6 hereof. Further, the Member shall deliver directly to the Registrar, proof of the successful completion of the course within thirty (30) days of its completion; and
- (c) directs that the findings and order of the Committee, including the Member's full name, be published in summary in the official publication of the College, *Professionally Speaking/ Pour parler profession*.

12. By this document the Member acknowledges his understanding that any agreement between the College and the Member with respect to the proposed penalty does not bind the Discipline Committee.

DECISION

Having examined the Exhibits filed, and based on the plea of guilt, the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, and the submissions made by counsel for the College and by the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Ian Scott McCuaig committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(18) and 1(19), as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member acknowledged that the admitted facts and exhibits described in paragraphs 4 to 6 (the “Admitted Facts”) of the *Agreed Statement of Facts, Guilty Plea, and Joint Submission on Penalty* (ASF - Exhibit 2) constitute conduct that is unprofessional and pleaded guilty to the allegations of professional misconduct against him.

The Committee accepted the Member’s guilty plea and the *Agreed Statement of Facts, Guilty Plea, and Joint Submission on Penalty*.

The Member engaged in and fostered a relationship through inappropriate electronic and telephone communications. He arranged meetings and trips with the student away from the school. The Member also engaged in physical contact with the student, which included hugging or kissing on the forehead as a greeting.

Through these inappropriate contacts, the Member encouraged the student to confide in and depend on him. This resulted in the Member attempting to counsel the student beyond the scope of his responsibilities as a teacher. In lieu of reporting the student’s condition to the proper authorities, the Member encouraged the student to deal with the situation on her own, thereby preventing her parents from becoming aware of her illness. These efforts may have prolonged the treatment of the student’s illness.

By this conduct, the Member failed to comply with the standards of the profession under Ontario Regulation 437/97 subsection 1(5), committed acts that were unprofessional under 1(18), and engaged in conduct unbecoming a member under 1(19).

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

- (a) the Member is directed to attend before the Committee, immediately following the hearing of this matter, to be reprimanded, and the fact that the reprimand was delivered be recorded on the public register of the Ontario College of Teachers;
- (b) the Member is directed to enrol in and complete, at his own expense, prior to September 24, 2008, a course of instruction, pre-approved by the Registrar, regarding professional boundaries and ethics in the profession and the Member shall provide to the instructor of said course a copy of the agreed facts set out in paragraphs 1 to 6 thereof. Further, the Member shall deliver directly to the Registrar, proof of the successful completion of the course within thirty (30) days of its completion; and
- (c) the findings and order of the Committee, including the Member's full name, shall be published in summary in the official publication of the College, *Professionally Speaking/ Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee is satisfied that the penalty is appropriate in the circumstances and serves and protects the public interest.

The reprimand by his peers in respect of these actions serves as a specific deterrent to the Member and the fact that the reprimand will be recorded on the Register sends a clear message to the membership that this conduct is inappropriate.

Successful completion a course of instruction, pre-approved by the Registrar, regarding professional boundaries and ethics in the profession will serve to remediate the Member and is an important step that will assist him in defining and maintaining proper boundaries and making appropriate professional judgments.

Publication of the findings and order of the Committee, in summary, with the name of the Member, in *Professionally Speaking/Pour parler profession*, serves as a general deterrent to the profession and serves the public interest by reassuring and informing the community that the profession acts decisively when matters of this nature are brought to its attention.

Date: March 25, 2008

John Tucker
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

John Wells
Member, Discipline Panel