

**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  
Gregory Allan Miller, a member of the Ontario College of  
Teachers.

PANEL:           Rosemary Fontaine, Chair  
                      Janet Cornwall  
                      Ted Coulson

BETWEEN:	)	
	)	
	)	Carole Jenkins,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -	)	
	)	
Gregory Allan Miller )	)	Maurice Green,
(CERTIFICATE # 244942)	)	Green & Chercover,
	)	for Gregory Allan Miller
	)	
	)	
	)	Paul Le Vay,
	)	Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: September 20, 2004

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

This matter came on for hearing before a panel of the Discipline Committee (the  
“Committee”) on September 20, 2004 at the Ontario College of Teachers (“the College”)  
at Toronto.

A *Notice of Hearing*, dated March 23, 2004 was served Gregory Allan Miller, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 26, 2004 to set a date for a hearing, and specifying the charges. The matter was subsequently set for hearing on September 20, 2004.

Gregory Allan Miller was in attendance at the hearing.

### **The Allegations**

The allegations against Gregory Allan Miller in the *Notice of Hearing* are as follows:

**IT IS ALLEGED** that Gregory Allan Miller is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the *Ontario College of Teachers Act* ( the "Act"), and/or is incompetent as defined in section 30(3) of 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 or the *Education Act*, Revised Statutes of Ontario, 1990, Chapter E. 2 and specifically section 264 (1) (c) thereof, or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);

- (d) he contravened a law, the contravention of which is relevant to the Member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1 (16);
- (e) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or to remain at risk contrary to Ontario Regulation 437/97, subsection 1 (17);
- (f) 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);
- (g) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (h) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the Act; and
- (i) he displayed a lack of knowledge, skill or judgment and/or a 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.

At the hearing, the Committee accepted the College's withdrawal of the allegations of professional misconduct as set out in paragraphs (c), (d), (e), (f), and (h) above and the withdrawal of the allegations of incompetence as set out in (i) above and as set out in the *Notice of Hearing*.

**PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Gregory Allan Miller, (the “Member”) is a member of the Ontario College of Teachers.
2. At all material times the Member was employed by the [ ] (the “Board”) as a teacher at [ ] (the “School”).
3. At all material times [ ] was a [ ] student in the Member’s [ ] at the School.
4. On or about 26 May 2003, in the 2002-2003 school year, the Member acted unprofessionally in respect of [ ] in that while [ ] was [ ], he approached [ ] from behind and brushed or touched her buttocks with one of his hands.

**Publication Ban**

On September 20, 2004 the Discipline Committee made an order that there be no publication of any information that may disclose the identity of the student involved in this matter or the identity of the Member’s children.

**Agreed Statement of Facts**

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

The *Agreed Statement of Facts* provides as follows:

1. Gregory Allan Miller (the “Member”) was at all material times a member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Registered Member Information of the Member. (*ASF – Exhibit 2, Tab A*)
2. At all material times the Member was employed by the [REDACTED] (the “Board”) as a teacher at [REDACTED] (the “School”).
3. At all material times [REDACTED] was a [REDACTED] at the School.
4. On or about 26 May 2003, in the 2002-2003 school year, the Member acted unprofessionally in respect of [REDACTED] in that while [REDACTED], he instructed her to return to her seat having previously warned her to sit down. The Member then poked [REDACTED] on her buttock with his finger as he passed by [REDACTED] on his way to assist another student.
5. On or about 6 August 2003, the Member was charged with committing a sexual assault on [REDACTED] contrary to section 271 of the Criminal Code of Canada. Attached hereto is a copy of the Information laid in respect of that charge. (*ASF – Exhibit 2, Tab B*)
6. On or about 23 March 2004, the Member pleaded not guilty to the charge of sexual assault referred to above but pleaded guilty to a charge of common assault against [REDACTED] contrary to section 266 of the Criminal Code of Canada.

7. Following the plea of guilty, the Court granted the Member a conditional discharge and placed him on probation for a period of one year during which he was not to have any contact either directly or indirectly with [■]. A copy of the transcript of the plea and sentencing before the Honourable Madam Justice M.L.D. Roberts on 23 March 2004, at [■], is attached. "C". Also attached is the document entitled "Regina vs. Gregory Miller", which included facts relating to the charge, and which was entered as Exhibit 1 at that trial. (ASF – Exhibit 2, Tab C & D)
8. A copy of the Probation Order issued by Madam Justice M.L.D. Roberts on 23 March 2004, is attached. (ASF – Exhibit 2, Tab E)

By this document, the Member, Gregory Allan Miller, accepts that the matters referred to in paragraphs 4 and 6 above constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), and 1(19), as set out in the Notice of Hearing, which is attached hereto and marked as **Exhibit "F"**.

By this document, the Member states that:

- (a) he understands fully the nature of the allegations that have been made 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; and

(c) he voluntarily decided to plead guilty.

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

### **Member's Plea**

The Member, Gregory Allan Miller, accepts that the matters referred to in paragraphs 4 and 6 above constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), and 1(19), as set out in the *Notice of Hearing*.

### **Joint Submission as to Resolution and Penalty**

In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee should find the Member guilty of professional misconduct. The parties jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Discipline Committee:

1. require the Member to immediately appear before the Discipline Committee to be reprimanded, and the fact of the reprimand to be recorded in the Register of the College for a period of one year; and
2. direct that the findings and order of the Discipline Committee be published in summary, including the Member 's name, in the official publication of the College, *Professionally Speaking/pour parler profession*.

### **Decision as to Finding**

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts and Guilty Plea*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Gregory Allan Miller committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7) and 1(19).

### **Decision as to Penalty**

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

1. the Member is to immediately appear before the Discipline Committee to be reprimanded, and the fact of the reprimand will be recorded on the Register of the College for a period of one year; and
2. pursuant to Section 30 (5) (iii) of the Ontario College of Teachers A the findings and order of the Discipline Committee are to 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**

Given that both counsel agreed that the proposed penalty was appropriate, and the Committee finds there were no extenuating circumstances that would make it reasonable to disagree with their recommendations, the Committee accepts the joint submission on penalty.

The Committee finds that the penalty is acceptable and will serve as a specific deterrent to the Member.

The Committee finds that the publication of the summary of this case, with the Member's name, serves to protect the public interest and serves as a general deterrent to the Member and to the profession. The Committee finds that specific deterrence to the Member has been addressed as well in the penalty of reprimand ordered by the Committee.

Date: September 20, 2004.

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Rosemary Fontaine  
Chair, Discipline Panel

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Janet Cornwall  
Member, Discipline Panel

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Ted Coulson  
Member, Discipline Panel