

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

*IN THE MATTER OF ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:*

**AND IN THE MATTER OF** discipline proceedings against William Ambrose Moloney

The Discipline Committee held a hearing on November 1,2,3 and 4, 1999

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**WILLIAM AMBROSE MOLONEY  
CERTIFICATE #177240**

**PRESENT:**

Members of the Committee

Jean Hanson (Chair)  
Larry Capstick  
Diane Leblovic

The Honourable Robert Reid, Independent Counsel to the Committee

Caroline Zayid, Sally Bryant-Ballingall, McCarthy Tétrault, Counsel for the Prosecution,  
assisted by Trevor Evans, Senior Law Clerk

William Markle and Stephanie Carey, Markle May Phibbs, Counsel for the Defense

William Ambrose Moloney

A Notice of Hearing, dated October 2, 1998 was served on William Ambrose Moloney, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on October 19, 1998 to set a date, and specifying the charges. Counsel later agreed that the hearing date would be set for November 1, 1999. It is alleged that William Ambrose Moloney 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 physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, subsection 1 (7);
- c) he failed to comply with the *Education Act* and the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1 (15);
- d) he committed an act 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).

The Notice of Hearing states that William Ambrose Moloney is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit #1).

On November 1, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether William Ambrose Moloney was guilty of professional misconduct.

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the Affidavit of Service dated May 14, 1999 and the Notice of Hearing dated October 2, 1998.

Counsel for the Ontario College of Teachers referred to the allegations set out in Exhibit #1 that William Ambrose Moloney 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 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 physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, subsection 1 (7);
- c) he failed to comply with the Education Act and the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1 (15);
- d) he committed an act 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).

Particulars of the alleged misconduct are set out in Exhibit #as follows:

- 1) William Ambrose Moloney is a member of the Ontario College of Teachers.
- 2) At all material times, William Ambrose Moloney was employed as a teacher by the Peterborough Victoria Northumberland and Clarington Catholic District School Board.
- 3) At all material times [XXX] was a student of the Peterborough Victoria Northumberland and Clarington Catholic District School Board and attended [XXX] School.
- 4) On or about December 15, 1997, William Ambrose Moloney physically assaulted [XXX] with a weapon, namely a hockey stick. At that time, [XXX] was [XXX] old.
- 5) On December 9, 1997, William Ambrose Moloney was suspended from his position as teacher at [XXX] School for twenty days without pay from December 10, 1997.

William Ambrose Moloney is a member of the Ontario College of Teachers. At all material times, William Ambrose Moloney was employed by the Peterborough Victoria Northumberland and Clarington Catholic District School Board as a teacher.

Detective William Hopkins was called as a witness by the College. Detective Hopkins is a police officer with the Durham Regional Police. He submitted a diagram of the change room and shower room at an arena (Exhibit #2). Detective Hopkins testified that he had taken statements from some of the students who had been present in the change room on October 15, 1997 following [XXX]'s School game against C School.

Detective Hopkins testified that on October 21, 1997 he took a statement from [XXX], that criminal charges were laid on October 30, 1997 and the matter went to trial on September 16, 1998. He was acquitted of those charges.

[XXX] was called as a witness by the College. [XXX] was a student at all material times. [XXX] testified that he was [XXX] at the time of the incident on October 15, 1997. [XXX] testified that he knew William Ambrose Moloney through Grades 9, 10, 11 and 12 through retreats, his connection with Camp [XXX], school activities and as a member of the [XXX]'s School hockey team. [XXX] was never taught by William Ambrose Moloney. He testified that William Ambrose Moloney was a good man and a good friend.

[XXX] testified that after a hockey game on October 15, 1997 he came out of the shower and snapped William Ambrose Moloney in the rear with a towel. He further testified that William Ambrose Moloney took off his collar and his vest; picked up a hockey stick; [XXX] made his way to the back of the shower, and that another student, [XXX], was in the shower. The Committee heard testimony from [XXX] that William Ambrose Moloney moved into the entrance of the shower, and that William Ambrose Moloney "whacked" him approximately 15 to 20 times. He identified areas on his body where the stick made contact and stated that he grabbed the stick once. [XXX] testified that he was mad and upset. [XXX] testified that William Ambrose Moloney was at the entrance to the shower during the incident and that he could not leave the shower because it was blocked by William Ambrose Moloney. [XXX] testified that the stick left welts.

William Ambrose Moloney returned to the dressing room, dressed and left the dressing room. [XXX] testified that William Ambrose Moloney returned, put his head in the

dressing room door and asked him if he wanted to go to the hospital. [XXX] testified that he said “no” and that William Ambrose Moloney said he wouldn’t drive him anyway. [XXX] testified that he felt embarrassed in front of his teammates. William Ambrose Moloney testified that he had been informed by [XXX]’s teammates that [XXX] was upset. [XXX] stated that William Ambrose Moloney telephoned him that same evening to tell him [XXX] had embarrassed him and apologized.

[XXX] and his mother, [XXX] testified that the incident resulted in marks on [XXX]’s body. There was inconsistent evidence from [XXX], [XXX] and team members in their testimonies as to the description and location of the marks. The Committee heard differing evidence as to the motion of the stick and how it was used in the incident. The number of movements, as reported by the witnesses, ranged from 10 to 20.

In response to questions from the Defense Counsel, [XXX] identified William Ambrose Moloney as an excellent person, fun-loving and very positive. He gave students pats on the back and hugs. He laughed, joked and engaged in horseplay. [XXX] gave a detailed description of the give and take in the dressing room and indicated that the incident started as a joke. Under cross-examination, [XXX] confirmed that he was blocked in the shower because William Ambrose Moloney was in the entrance to the shower, and that he was “whacked” not “tapped”.

The Committee heard evidence from a number of other members of the senior hockey team who were present in the change room on October 13 [XXX]. They all agreed that an incident involving William Ambrose Moloney and [XXX] took place in the change

room. They all agreed that the incident started with [XXX] flicking William Ambrose Moloney with a towel. They all agreed that William Ambrose Moloney picked up a hockey stick and moved toward the shower stall where [XXX] was showering. The members of the hockey team testified that the incident involved horseplay between [XXX] and William Ambrose Moloney.

The Committee heard from witnesses who testified to William Ambrose Moloney's character within the educational system and within the committee. The character witnesses were: Helen Baxter, James Gibson, Bernard Bucholtz, Elizabeth Ferguson, Pat Landers, Joanne Hough, Heather Campbell, Jane Black, and Peter Delanty.

William Ambrose Moloney testified that he physically contacted [XXX]'s body with the hockey stick. He regarded the entire incident as simple horseplay.

#### **FINDINGS OF FACT:**

The Committee is satisfied that:

- 1) an incident occurred between [XXX] and William Ambrose Moloney in the change room at an arena on October 15, 1997;
- 2) the incident started out as horseplay and William Ambrose Moloney never intended to injure [XXX];
- 3) the incident caused embarrassment and upset to [XXX] in front of his teammates;
- 4) William Ambrose Moloney physically contacted [XXX] with a hockey stick and this resulted in marks to his body;

- 5) [XXX] attempted to deflect the stick and prevent William Ambrose Moloney from making contact with his body with the stick;
- 6) William Ambrose Moloney prevented [XXX] from exiting the shower by physically blocking the entrance.
- 7) William Ambrose Moloney apologized later that day to [XXX] for the embarrassment caused in front of his team.

**FINDING AND REASONS:**

The Committee is satisfied that William Ambrose Moloney hit a student with a hockey stick.

The Committee accepts that William Ambrose Moloney was in a position of trust and authority at all times during the incident.

The Committee is not satisfied that William Ambrose Moloney intended to injure the student but in our view, what began as a joke ultimately resulted in professionally unacceptable behaviour.

The Committee carefully considered the context of William Ambrose Moloney's actions and in our view, he was a respected teacher and member of the community as evidenced by the number of letters of support and testimony to his character.

However, the committee believes that through his actions on October 15, 1997, William Ambrose Moloney used poor judgement and committed a "boundary violation" by

entering the shower room and making physical contact with a student with a hockey stick. William Ambrose Moloney failed to recognize at the time that his actions and behaviour were inappropriate and that they had caused upset and embarrassment to the student.

The Committee is of the view that William Ambrose Moloney's behaviour fell below the acceptable standard for the profession and was inappropriate within a teacher/student relationship.

The Committee does not believe that the action by William Ambrose Moloney was done with malice or intent to harm. This factor was taken into consideration when determining the penalty.

**DECISION AND ORDERS:**

Based on the reasons outlined above, the Committee finds William Ambrose Moloney guilty of professional misconduct under sections 1 (5), 1 (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to suspend William Ambrose Moloney's Certificate of Qualification and Registration for a period of five days. Said suspension is deemed to have been served as referenced In The Matter of Arbitration Between Peterborough Roman Catholic Separate School Board and the Ontario English Catholic Teachers' Association dated at Toronto December 4, 1998 (Exhibit #9).

## **Notice**

It is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the Committee, a practice that has significant general deterrent value.

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 the official publication of the Ontario College of Teachers and in any other manner or medium that the Committee considers appropriate in the particular case.

**DATED AT TORONTO, THIS 29th DAY OF NOVEMBER, 1999  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Jean Hanson, **Chair**

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Diane Leblovic

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Larry Capstick