

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

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

AND IN THE MATTER OF discipline proceedings against Paul James Mulvaney.

The Discipline Committee held a hearing on July 9, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**PAUL JAMES MULVANEY
CERTIFICATE #430223**

PRESENT:

Members of the Panel

Marilyn Laframboise (Chair)

Sterling Campbell

Solette N. Gelberg

The Honourable The Honourable Patrick T. Galligan, retired judge, Independent Counsel to the Panel

Jane Langford, McCarthy Tétrault LLB, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Paul James Mulvaney was not present nor was he represented.

A Notice of Hearing dated August 28, 2001 was served on Paul James Mulvaney (also known as "Paul Mulvaney"), requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 15, 2001 to set a date for hearing, and specifying the charges. The hearing date was set for July 9, 2002.

It is alleged that Paul Mulvaney is guilty of professional misconduct and/or incompetence as defined in subsections 30(2) and (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 failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, Chapter E. 2 and particularly section 264 (1) (a), (b), (c) (d), (g) and (i) thereof, and the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (c) he performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as being disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- (d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (e) he displayed a lack of knowledge, skill or judgement 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.

The Notice of Hearing states that Paul Mulvaney is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On July 9, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Paul Mulvaney was guilty of professional misconduct.

Paul Mulvaney was not in attendance at the hearing, nor was he represented by counsel. Counsel for the College provided a number of documents to the panel in order to indicate that the member was aware of the allegations and that every reasonable effort was made to contact the member (Exhibits #1, #3, #4, #8).

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that Paul Mulvaney 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 particular, subsections 1 (5), (14), (15), (18) and (19) and that he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare 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.

Counsel presented evidence that Paul Mulvaney is a member of the Ontario College of Teachers. At all material times, the member was employed by the [REDACTED] (also known as the "Board") as a teacher.

Witness Linda Palazzi, Co-ordinator of Membership Services for the Ontario College of Teachers, stated that Paul Mulvaney was granted a Certificate of Qualification (Limited) to teach Manufacturing Technology. He had complied with Section 2 Technological Qualification, had completed the first session of a program of professional education, and had provided the Ontario College of Teachers with proof of an offer of a teaching position. She explained that a member is allowed to teach for the 10 months between Part I and Part II following which a permanent certificate would be granted only if the member had successfully completed Part I of the program, had received a successful assessment from the Board of Education and the University regarding his abilities as a teacher, and then had successfully completed Part II of the program.

Linda Palazzi explained that a Certificate of Qualification (Limited) would expire if a member did not complete Parts I and II or if the individual had an unsatisfactory teaching assessment. Since the member did not complete the required 10 months of teaching, his Certificate of Qualification (Limited) had been cancelled. She further stated that should the member, at some later date, successfully complete the required 10 months of teaching and Part II, that a permanent certificate would then be granted.

Witness [REDACTED] testified that he was the principal at the [REDACTED] school during the time Paul Mulvaney was employed there as a Technology teacher. He explained that after the

previous [] teacher had died suddenly in February 1999, the member responded to an advertisement placed by the Board for a replacement. He was interviewed and hired after agreeing to take the Queen's University course over two summers. He began teaching in March, 1999, and although the witness knew that the member would need some work to stay in the classroom since he had the skills to be a welder but did not have the required teaching skills, no particular concerns were noted during the period from March to June, 1999.

However, in June, after a request for a day off was denied, the member did not arrive at school on June 11, 1999. He did not follow the procedures set out in the Staff Manual for teacher absences to ensure that classes are covered when a teacher cannot be present. He did leave a voice mail message saying only that he would be absent but the message was not retrieved until later in the day. He gave his classroom keys to another teacher to bring to school but no work was left for the students. It was confirmed later that the absence was for medical reasons but this was not explained beforehand. [] stated that this was out of the ordinary behaviour for a teacher and the incident was put on the record with a letter to the member, dated June 13, 1999, to make the point that it should not happen again. The letter concluded "In the future, behaviour of this nature will result in more severe consequences up to and including suspension and dismissal from duty" (Exhibit #5, Tab 6).

The member took the required summer course at Queen's University and returned to teach at the school in September, 1999.

[] reviewed the following documents: his Performance Appraisal Report for staff member Paul Mulvaney from October 29, 1999; another Performance Appraisal Report from November 28, 1999 by Vice-Principal []; and a November 29, 1999 reporting letter to the Co-ordinator of the Internship Program at Queen's University from [] at the school (Exhibit #5, Tabs 8, 9 & 10). All of the letters and reports referred to deficiencies in the member's teaching skills, and provided suggestions for areas where improvement could be made.

On November 30, 1999, the administration became aware of inappropriate comments made during the member's [] class. A letter was sent to the member on December 2, 1999 informing him that although this second incident of unprofessional behaviour noted in his file was not similar to the problem outlined in June, 1999, that "any further form of unprofessional behaviour will result in consequences up to and including dismissal from duty."

On January 25, 2000, [] prepared another Performance Appraisal Report on the member. It referred to some improvements from the first Appraisal Report, but listed six areas where improvement in the member's teaching skills were required. The letter informed the member that he was not being recommended for a permanent contract with the Board and explained why. A further letter on February 22, 2000, indicated that discussions with the Ontario Secondary School Teachers' Federation (OSSTF) led to the decision to place the member "under review" and to extend his probationary period to June, 2000. The letter went on to detail those concerns that still needed to be resolved including the member's conduct in the classroom which had caused parents to complain

and/or request that their children not be in the member's classroom. The letter stated, "It is expected that during the second semester there would (sic) no further incidents of poor professional judgement and professional misconduct in the classroom." An Assistance Plan was provided.

[] arranged for the vice-principal to continue to assess the member since he thought that she might see something positive that he had missed. The vice-principal reported that "Paul has demonstrated difficulties with 'professionalism,' integrity and judgement." Her overall assessment was that the member "Has Significant Difficulties" (Exhibit #5, Tab 14).

On April 20, 2000, with two unsatisfactory reports having been submitted, the Faculty Liaison from Queen's University Faculty of Education visited the school to observe the member's teaching. He completed a Practicum Review Form that stated that the "Teacher Candidate has not fulfilled the recommendations" (Exhibit #5, Tab 15).

[] told the Committee that Paul Mulvaney repeatedly behaved in an inappropriate manner in meetings about his performance. The member would get red in the face, raise his voice, use inappropriate language, and then slam the door as he left.

Sergeant James Biskey from the Chatham-Kent Police, told the Committee about Paul Mulvaney's arrest, on April 25, 2000, on a charge of uttering a threat to cause death or bodily harm to [] who was the [] at the school. The member admitted uttering the threats.

Sergeant Biskey reviewed Principal [REDACTED] statement to the police (Exhibit #5, Tab 22). It indicated that on April 17, 2000, Principal [REDACTED] received a telephone call from a teacher who stated that she was worried about Paul Mulvaney who seemed upset. The vice-principal spoke to the member and as he seemed calm, the principal took no further action. On April 20, 2000, the same teacher went to the principal's office saying that she had received some further information and that she did not know what to do with it. She appeared worried and concerned. The principal advised her to think about her concerns. He advised her that when she felt ready, they would discuss them further. On April 25, 2000, the same teacher went to the principal's office where both he and the vice-principal were present. The teacher was advised to see the Branch President to tell him about the information she had, and to get his advice. She did so and returned to the principal's office with the Branch President to report that "Paul Mulvaney had said that he was going to beat up [REDACTED], the [REDACTED], and that when he got out of jail he would return to the hospital and beat up [REDACTED] again. She said that Paul was blaming [REDACTED] for the problems that were going on with him being on review as a teacher. Then she told me [REDACTED] that she had come on Thursday because she had been with Paul earlier and he told her that he was going to kill [REDACTED] and his family sometime this week at dinner time". As soon as Principal [REDACTED] heard this information, the police were contacted. The police came to the school to investigate, and the member was subsequently arrested.

Criminal charges were laid against the member and on May 9, 2000, he was advised, by letter, of his suspension without pay until the Board made a final decision about his employment (Exhibit #5, Tab 17). The letter says that it will be recommended that the member be dismissed from employment and that the matter be reported to the Ontario

College of Teachers. On May 23, 2000 the Board decided to dismiss the member from employment and subsequently made a complaint to the College.

On June 22, 2000, the charges against the member were withdrawn and a peace bond was issued requiring the member to keep the peace and be of good behaviour for 12 months (Exhibit #5, Tab 29). Conditions attached were that he abstain from communicating or associating directly or indirectly with [REDACTED], that he not attend at or be near [REDACTED] and that he not possess any firearms, ammunition, explosive substance, restricted or prohibited weapons or any other device named in Section 111 of the *Criminal Code of Canada*. The Recognizance to Keep the Peace states that failure to meet the above conditions would result in forfeiture of the bond of \$500.00.

FINDINGS OF FACT:

The Committee finds the following facts:

1. Paul Mulvaney was reprimanded twice by his principal, once for leave without permission and a second time for inappropriate behaviour in the classroom.
2. All of the member's performance reviews by the principal, vice-principal, Technology Director, and Faculty Liaison from Queen's University, indicate that he was not successful as a classroom teacher.
3. Paul Mulvaney was charged with two offenses of uttering threats contrary to Section 264.1, subsection (2) of the *Criminal Code of Canada*.
4. The charges were withdrawn on a Recognizance To Keep The Peace with certain conditions attached, failing which he would forfeit a \$500.00 deposit.

The Committee is satisfied that Paul Mulvaney failed to maintain the standards of the profession despite being given every opportunity to do so and that he behaved both in and out of the classroom in a manner that is totally unacceptable for any teacher.

DECISIONS AND ORDERS:

Accordingly, the Committee finds Paul Mulvaney guilty of professional misconduct under subsections 1 (5), (14), (15), (18), and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke the member's Certificate of Qualification and Registration immediately.

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 panel, 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, *Professionally Speaking/Pour parler profession*.

DATED AT TORONTO, THIS 16th DAY OF SEPTEMBER, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

Marilyn Laframboise, **Chair**

Sterling Campbell

Solette N. Gelberg