

**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
Emmett Jamieson R. O'Neill, a member of the Ontario College of
Teachers.

PANEL: Marilyn A. Laframboise, Chair
Ernie Checkeris
Audrey Hadfield

BETWEEN:)	
)	
)	L. Thomas Forbes, Q.C., McCarthy
ONTARIO COLLEGE OF TEACHERS)	Tétrault, for Ontario College of
)	Teachers, assisted by Trevor
- and -)	Evans, Senior Law Clerk
)	
EMMETT JAMIESON R. O'NEILL)	Emmett Jamieson R. O'Neill was not
(CERTIFICATE #166081))	present, nor was he represented.
)	
)	Paul Le Vay, Stockwoods,
)	Independent Legal Counsel
)	
)	Heard: January 12, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came before a panel of the Discipline Committee for a hearing on January
12, 2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated September 8, 2003 was served on Emmett Jamieson R. O'Neill, requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 20, 2003 to set a date for a hearing, and specifying the charges.

Emmett Jamieson R. O'Neill was not in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. (Exhibit 1)

The allegations against Emmett Jamieson R. O'Neill in the Notice of Hearing dated September 8, 2003 are as follows:

IT WAS ALLEGED that Emmett Jamieson R. O'Neill is guilty of professional misconduct as defined in sections 30(2) of the Act, and/or is incompetent as defined in section 30(3) of the Act, that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he released or disclosed information about a student to a person other than the student, contrary to Ontario Regulation 437/97, subsection 1(6);
- (c) he abused a student or students physically, sexually, verbally, psychologically or emotionally contrary to Ontario Regulation 437/97, subsection 1(7);
- (d) he failed to comply with the Act and 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);
- (e) he contravened the 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);

- (f) he committed acts, which 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); and
- (h) 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.

Agreed Statement of Facts and Member's Plea

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced as **Exhibit 2**, an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*.

The Member pleaded no contest to the allegations of professional misconduct in numbered paragraphs 3 through 10 of the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(6), 1(7), 1(14), 1(15), 1(18) and (19).

The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. Emmett Jamieson R. O'Neill, (the "Member"), is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit 2, Tab "A"** is a copy of the Ontario College of Teachers Registry Status Information re the Member.
2. At all material times, the Member was employed by the Bruce-Grey Catholic District School Board, and its predecessor, Bruce-Grey County Roman Catholic Separate School Board ("the Board") as a teacher at St. Mary's High School, Owen Sound ("the School").

3. At all material times, [XXX], [XXX] and [XXX], were female teachers at the School and [XXX] was an adult female student of the School.
4. During the period from approximately 1992 to approximately 1998, the Member:
 - (a) engaged in a pattern of abusive and harassing conduct that was in contravention of various Board policies including Workplace Harassment; The Role of Teachers; the Credo for Catholic Education; and Safe Positive Learning Environments.
 - (b) created a harmful work and learning environment for female teachers and students;
 - (c) referred to women as, "feminazis";
 - (d) made innuendos about the sexuality of [XXX] in front of other students;
 - (e) repeatedly yelled at [XXX] in the classroom and made the remark to her that he knew where she resided and that she had children;
 - (f) engaged in a pattern of intimidation and harassment towards female members of staff including, but not limited to, [XXX], [XXX] and [XXX];
 - (g) engaged in a pattern of intimidation and harassment towards female students, including but not limited to [XXX];
 - (h) made threats of workplace violence;
 - (i) told teacher [XXX] that he had advised the Chair of the Board that unless the Chair backed off he intended to say that the Chair had "fucked young boys";
 - (j) advised [XXX], without providing any further detail when asked, of a rumour that she was leaving her husband and that she had taken up with a female student, a statement which [XXX] regarded as an indirect threat.
5. In or around September 1992, the Member made a comment, in the presence of students and [XXX], a female teacher at the School, that "men are scum - I did Kristen French."
6. In or around October 1992, the Member told [XXX] that he was receiving counselling for an alcohol problem and advised her that she had to understand the way he dealt with conflict and said, "you don't fuck with me because if you fuck with me I am going to walk all over you."
7. By letter dated 14 September 1993, the Member was disciplined for publicly berating [XXX], a female teacher at the School, threatening to "go toe to toe," with [XXX], and making unacceptable comments to her. Attached hereto and

marked as **Exhibit 2, Tab "B"** is a copy of letter dated 14 September 1993 from the Director of Education of the Board.

8. Several days after the "Take Back the Night" March in Owen Sound which took place in or around September 1995, the Member was heard marching down a hallway at the School while at the same time shouting, "take back the night, take back the night."
9. In or around November 1995, during an encounter with [XXX], the Member referred to other teaching staff as, "a bunch of fucking sheep."
10. In or around December 1995, the Member entered the classroom of [XXX], uninvited, while students were engaged in silent reading. The Member addressed the students as he removed a large fur hat while yelling, gesturing and saying something to the effect that the hat was their dog or cat, before throwing the hat onto the desk of [XXX]. The Member then spoke about placing a baby seal on [XXX]'s desk and smashing its brains out. The Member then stated that he was not a tree hugger, that he was not a vegetarian and that he liked his meat rare.
11. On or around 21 December 1995, the Member was charged with uttering threats to cause serious bodily harm pursuant to Section 264.1 (1) of the *Criminal Code of Canada*. On or around 7 October 1996, the said charge was withdrawn on condition of the Member entering into a peace bond for a period of one year with conditions. Attached hereto and marked as **Exhibit 2, Tabs "C" and "D"** respectively are copies of Information Number 00126 dated 23 January 1996 and Recognizance to Keep the Peace dated 7 October 1996.
12. Attached hereto and marked as **Exhibit 2, Tab "E"** is the transcript of the proceedings before Judge Lang at Owen Sound on 7 October 1996 relating to the withdrawal of the charge.
13. On or about 9 January 1996, the Member was suspended from his teaching duties by the Board and was dismissed by the Board on or about 1 April 1998. Attached hereto and marked as **Exhibit 2, Tab "F"** is a copy of letter dated 15 October 1996 from the Human Resources Administrator of the Board to the Member confirming the Member's suspension.
14. The Member was dismissed by the Board on or about 1 April 1998.
15. The Member subsequently brought a grievance in respect of his dismissal and a hearing was conducted commencing in February 1999 with a decision being handed down on 20 April 2000. The dismissal of the Member by the Board was upheld by a majority decision at the arbitration. Attached hereto and marked as **Exhibit 2, Tab "G"** is a copy of the arbitration report in respect of this matter.

16. The arbitration makes reference to various medical reports. Those reports are attached hereto and marked respectively as **Exhibit 2, Tabs "H" to "O"** as follows:
- (a) Letter from Dr. Winston Gormandy to Emmett O'Neill dated 26 November 1996;
 - (b) Letter from Dr. Winston Gormandy to Emmett O'Neill dated 09 January 1997;
 - (c) Report of Dr. Winston Gormandy to William W. Markle re Emmett O'Neill dated 03 April 1997;
 - (d) Report of Dr. Basil Orchard to William W. Markle, Q.C. with attached C.V. of Dr. Orchard dated 01 October 1997;
 - (e) Report of Dr. Winston Gormandy to Paul Cavalluzzo re Emmett O'Neill dated 04 February 1999;
 - (f) Report of Dr. Winston Gormandy to Paul Cavalluzzo re Emmett O'Neill dated 16 August 1999;
 - (g) Report of Dr. Hy Bloom to Stephen Gleave dated 10 November 1999
 - (h) Supplementary Report of Dr. Basil Orchard to Paul Cavalluzzo dated 08 December 1999;
17. By this document, the Member states that:
- (a) he understands the nature of the allegations that have been made against him; and
 - (b) he understands that by signing this document he is consenting to the evidence as set out in **Exhibit 2, Tabs "A" to "O"** herein being presented to the Discipline Committee.
18. By this document, the Member pleads no contest to the facts referred to in paragraphs 3 to 10 above.
19. In light of the above plea of no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee may accordingly treat the matters referred to in paragraphs 3 to 10 as constituting professional misconduct and may find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(6), 1(7), 1(14), 1(15), 1(18) and 1(19).
20. The Member further pleads no contest to the allegation of incompetence as defined in section 30(3) of the *Ontario College of Teachers Act* in that 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.

21. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:
- (a) directs the Registrar of the Ontario College of Teachers to suspend the Certificate of Qualification and Registration of the Member for a period of six months. However, that sentence would be postponed and not imposed if:
 - (i) there are no further reports of any professional misconduct to the Ontario College of Teachers in respect of the Member, within one year of the order of the Discipline Committee in respect of this matter; and
 - (ii) the Member presents himself, within six months of the date of the order of the Discipline Committee in respect of this matter at his expense, for one session with Dr. Mary Louise Arnold, so as to be counselled with respect to the inappropriateness of the conduct described in paragraphs 3 to 10 herein and within thirty days following such attendance, provides satisfactory proof to the Registrar that the session occurred; and
 - (b) 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*.

Decision

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest 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 Emmett Jamieson R. O'Neill committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(6), 1(7), 1(14), 1(15), 1(18) and 1(19).

Penalty

Counsel for the College advised the Committee that a joint submission on penalty had been agreed upon. The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

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

- (a) directs the Registrar of the Ontario College of Teachers to suspend the certificate of qualification and registration of the Member for a period of six months. However, that sentence would be postponed and not imposed if:
 - (i) there are no further reports of any professional misconduct to the Ontario College of Teachers in respect of the Member, within one year of the order of the Discipline Committee in respect of this matter; and
 - (ii) the Member presents himself, within six months of the date of the order of the Discipline Committee in respect of this matter at his expense, for one session with Dr. Mary Louise Arnold, so as to be counselled with respect to the inappropriateness of the conduct described in paragraphs 3 to 10 herein and within thirty days following such attendance, provides satisfactory proof to the Registrar that the session occurred; and

- (b) 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*.

Penalty Decision

The Committee accepts the joint submission on penalty and accordingly directs the Registrar of the Ontario College of Teachers to suspend the certificate of qualification and registration of Emmett Jamieson R. O'Neill for a period of six months. However,

that sentence would be postponed and not imposed if there are no further reports of any professional misconduct to the Ontario College of Teachers in respect of the Member, within one year of the order of the Discipline Committee in respect of this matter; and

The Registrar is directed to impose the following specified term, condition or limitation on the Member's certificate:

the Member is to present himself, within six months of the date of the order of the Discipline Committee, in respect of this matter at his expense, for one session with Dr. Mary Louise Arnold, so as to be counselled with respect to the inappropriateness of the conduct described in the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* and within thirty days following such attendance, provide satisfactory proof to the Registrar that the session occurred.

The Committee finds that the penalty is reasonable and serves to protect the public interest in that:

- (a) the order meets the objective of general deterrence, in that it serves as a message to the profession to deter members of the profession from engaging in similar misconduct;
- (b) the order meets the objective of specific deterrence to the Member; and
- (c) the order will remediate the Member by the completion of appropriate counselling.

Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the Committee orders that the findings and order of this hearing, as well as the full name of the

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

Date: January 12, 2004

Marilyn A. Laframboise
Chair, Discipline Panel

Ernie Checkeris
Member, Discipline Panel

Audrey Hadfield
Member, Discipline Panel