

**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  
Wayne Robert O’Neill, OCT, a member of the Ontario College of  
Teachers.

PANEL: Hanno Weinberger, OCT, Chair  
Irene Dembek, OCT  
John Tucker

BETWEEN:	)	Eli Mogil,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Daniela De Bartolo,
	)	Litigation Paraprofessional
- and -	)	
	)	
WAYNE ROBERT O’NEILL	)	Wayne Robert O’Neill
(CERTIFICATE #456967)	)	was not present, or represented
	)	
	)	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
	)	
	)	Heard: July 18, 2011

**DECISION, REASONS FOR DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on July 18, 2011 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 3, 2011 was served on Wayne Robert O’Neill, requesting his presence on June 21, 2011 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for July 18, 2011.

Wayne Robert O’Neill was not in attendance.

## **THE ALLEGATIONS**

The allegations against Wayne Robert O’Neill in the *Notice of Hearing*, (Exhibit 1) dated June 3, 2011 are as follows:

**IT IS ALLEGED** that Wayne Robert O’Neill 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 physically contrary to Ontario Regulation 437/97, subsection 1(7.1);
- (c) he abused a student psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7.2);
- (d) he abused a student sexually, contrary to Ontario Regulation 437/97, subsection 1(7.3);
- (e) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (f) 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);
- (g) he contravened a law, the contravention of which has caused or may cause a student who is under the Member’s professional supervision to be put at or to remain at risk contrary to Ontario Regulation 437/97, subsection 1(17);
- (h) 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);

- (i) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (j) he engaged in sexual abuse of a student or students of the nature defined in sections 1 and 40 (1.1) of the *Act*.

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced a *Statement of Uncontested Facts and Plea of No Contest* (Exhibit 2), which provides as follows:

### **STATEMENT OF UNCONTESTED FACTS**

1. At all material times, the Member was a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. The Member was employed by the Rainbow District School Board (the “Board”) at all times material hereto and was a teacher at [XXX] (the “School”) in [XXX], Ontario.
3. Student A was a female [XXX] student at the School.
4. During the 2009/2010 academic year, and specifically, from in and about February 2010, the Member engaged in a sexual relationship with Student A, which included his spending time alone with her; his displaying of her photographs in his office; and his hugging, kissing and touching Student A.
5. During the early morning hours of February 11, 2010, the Member was found by police alone in his vehicle with Student A.
6. At a Bail hearing on February 12, 2010, one of the conditions of the Member’s release was that he not associate with or communicate directly with Student A or her family

and that he not attend at or within 500 metres of Student A or her family's places or residence, school or employment. Attached as **Exhibit "B"** is a transcript of the attendance before His Worship Justice of the Peace N. Ross on February 12, 2010.

7. Despite the terms of Recognizance referred to at paragraph 6 above, the Member exchanged numerous e-mails with Student A between March 26 and March 30, 2010.

8. On August 25, 2010, the Member entered pleas of guilt to both of the charges against him that he, being in a position of trust or authority towards [Student A], a young person, did for a sexual purpose touch [Student A] directly with a part of his body, to wit, his hands, contrary to subsection 153(a) of the *Criminal Code of Canada*, and that he breached the terms of his Recognizance of Bail. Attached as **Exhibit "C"** is a certified copy of the Certificate of Conviction.

9. At a sentencing before the Honourable Mr. Justice W. F. Fitzgerald on December 2, 2010, a copy of the transcript of which attendance is attached as **Exhibit "D"**, the Member was sentenced, *inter alia*, to 14 days in jail and a 24-month probation.

10. The Member's employment with the Board was terminated on March 10, 2010.

### **PLEA OF NO CONTEST**

11. By this document the Member admits, for the purposes of this proceeding only, the truth of the facts and exhibits referred to in paragraphs 1 to 10 above (the "Uncontested Facts").

12. The Member hereby acknowledges that the Uncontested Facts referred to in paragraphs 4, 5 and 7 above constitute conduct which is professional misconduct and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of *Ontario Regulation 437/97*, subsections 1(5), 1(7.1), 1(7.2), 1(7.3) 1(15), 1(16), 1(17), 1(18) and 1(19). The Member also acknowledges that he engaged in sexual abuse of a student of a nature defined in Sections 1 and 40 (1.1) of the *Act*.

13. By this document the Member states that he:

- (a) understands fully the nature of the allegations against him;
- (b) understands that by signing this document he is consenting to the evidence as set out in the Uncontested Facts being presented to the Discipline Committee;
- (c) understands that by pleading no contest 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;
- (d) understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to his name, may be published in the official publication of the College;
- (e) understands that any agreement between him and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;
- (f) understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and without the advice of legal counsel.

14. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of Civil Procedure of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, chapter E. 23, for the purpose of this proceeding under the *Ontario College of Teachers Act 1996*, chapter 12, and for no other purpose. The Member's plea of no contest does not constitute an admission by the Member as to the facts or findings in any other civil, criminal or administrative proceeding.

15. In light of the uncontested 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**

16. 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 Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar; and
- (b) directs that there be publication of the findings and Order of the Committee in summary form, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

## **DECISION**

Having considered the evidence, onus and standard of proof, and the submissions made by Counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Wayne Robert O'Neill committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7.1), 1(7.2), 1(7.3) 1(15), 1(16), 1(17), 1(18) and 1(19). Further, the Committee finds that the Member engaged in sexual abuse of a student of a nature defined in Sections 1 and 40 (1.1) of the *Act*.

## **REASONS FOR DECISION**

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 10 (the "uncontested facts") of the *Statement of Uncontested Facts and Plea of No Contest* (Exhibit 2). He acknowledged that the uncontested facts referred to in paragraphs 4, 5 and 7 above constitute conduct which is professional misconduct and pleaded no contest to the allegations of professional misconduct against him. The Committee accepted the Member's plea of no contest and the facts in the *Statement of Uncontested Facts and Plea of No Contest*.

The Member engaged in a sexual relationship with a [XXX] student who attended the school where he taught. The relationship included the Member spending time alone with her, displaying photographs of her in his office and hugging, kissing and touching her.

At a bail hearing on February 12, 2010, one of the conditions of the Member's release was that he not associate with or communicate directly with the Student. Despite the terms of

Recognizance, the Member exchanged numerous e-mails with the Student between March 26 and March 30, 2010.

On August 25, 2010, the Member entered a guilty plea to both of the charges against him that he, being in a position of trust or authority towards the Student, a young person, did for a sexual purpose touch the Student directly with a part of his body, contrary to subsection 153(a) of the *Criminal Code of Canada*, and that he breached the terms of his Recognizance of Bail. On December 2, 2010, the Member was sentenced to 14 days in jail and a 24-month probation.

The Committee finds that the Member's actions and conviction for sexual exploitation of a student as outlined herein constitutes professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7.1), 1(7.2), 1(7.3) 1(15), 1(16), 1(17), 1(18) and 1(19). By this conduct, the Member engaged in sexual abuse of a student of a nature defined in Sections 1 and 40 (1.1) of the *Act*.

### **PENALTY DECISION**

The Committee makes the following order as to penalty:

1. The Registrar is directed to immediately revoke the Certificate of Qualification and Registration of the Member; and
2. The Committee directs that there be publication of the findings and Order of the Committee in summary form, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

## **REASONS FOR PENALTY DECISION**

The Member's abhorrent behaviour has brought the profession into disrepute. The Member abused the authority and trust vested in him in his role as a teacher to take advantage of and engage in sexual abuse of a student. He pleaded guilty to the charge, that being in a position of trust or authority towards a young person, did for a sexual purpose touch the young person with his hands, contrary to subsection 153(a) of the *Criminal Code of Canada*. Further, he breached the terms of his Recognizance of Bail.

The conduct of the Member was unacceptable and in conflict with the duty of a teacher to protect students. The Member, as a result of his conduct, has forfeited the privilege of holding a teaching certificate and being a member of the teaching profession. This egregious misconduct requires that the Member receive the maximum penalty, revocation of his certificate of qualification and registration.

Publication of the findings and order of the Committee, in summary, along with the name of the Member, identifies to the profession the nature of the Member's misconduct and the consequences for such behaviour. Publication, in this case, acts as a general deterrent and informs the profession that such behaviour will not be tolerated and will result in the harshest penalty, revocation. Publication 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.

In conclusion, the Committee is confident that the penalty serves the interests of the public and the profession.

Date: August 4, 2011

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Hanno Weinberger, OCT  
Chair, Discipline Panel

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Irene Dembek, OCT  
Member, Discipline Panel

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John Tucker  
Member, Discipline Panel