

**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 Charity Chika Ogoke, a member of the Ontario College of Teachers.

PANEL: John Tucker, Chair
 Dean Favero
 Rosemary Fontaine

BETWEEN:)	
	)	Yasmin Nizami,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Jennifer Robinson,
	)	Law Clerk
- and -)	
	)	David Bloom,
	)	Cavalluzzo Hayes Shilton
	)	McIntyre & Cornish LLP,
CHARITY CHIKA OGOKE	)	for Charity Chika Ogoke
(CERTIFICATE #460902))	
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: November 12, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 12, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated August 28, 2007 was served on Charity Chika Ogoke, requesting her attendance before the Discipline Committee of the Ontario College of Teachers on October 3, 2007 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 12, 2008. Charity Chika Ogoke was in attendance at the hearing.

THE ALLEGATIONS

The allegations against Charity Chika Ogoke in the *Notice of Hearing*, (*Exhibit 1*) dated August 28, 2007 are as follows:

IT IS ALLEGED that Charity Chika Ogoke is guilty of professional misconduct as defined in section 30(2) and/or is incompetent as defined in section 30(3) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) she failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 437/97, subsection 1(11);
- (d) she 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) she 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);
- (f) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (g) she displayed a lack of knowledge, skill or judgment of a nature or extent that demonstrates that she is either unfit to carry out her professional responsibilities or that her certificate should be made subject to terms, conditions or limitations.

At the hearing on November 12, 2008, College counsel sought to withdraw the following particulars contained in paragraphs (b), (c), (d), (e), (f) and (g) of the *Notice of Hearing*, being alleged breaches of Ontario Regulation 437/97, subsections 1(7), 1(11), 1(14), 1(15), 1(18), 1(19) and breach of section 30(3) of the Act. The Committee agrees that these allegations shall be withdrawn.

Counsel for the College advised the Committee that an agreement had been reached and introduced an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty (ASF – Exhibit 2)*, which provides as follows:

AGREED STATEMENT OF FACTS

1. Charity Chika Ogoke (the “Member”) is a member of the Ontario College of Teachers. Attached and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information in respect of the Member.

2. At all material times, the Member was employed by the Dufferin-Peel Catholic District School Board (the “Board”) as an occasional teacher. In this capacity, the Member was assigned to a number of elementary schools of the Board.

3. Following her suspension from the Board’s Central Supply List for the remainder of the 2005/2006 academic year, the Member was returned to the list in September 2006 and there have been no further complaints about the Member’s conduct since that time.

UNCONTESTED FACTS AND PLEA OF NO CONTEST

4. The Member, for the purposes of this proceeding only, does not contest the following facts:

- (a) On a number of occasions during her assignments, the Member made inappropriate remarks of a mean-spirited nature to and about her students.
- (b) On or about June 21, 2005, the Member failed to provide adequate supervision of her students when she engaged in conversation on her cell phone.
- (c) As well, during one of her assignments in June 2005, the Member yelled at the Principal when advised that as part of her obligations that day, she was to perform bus duty for Senior Kindergarten students. Despite such direction, the Member failed or refused to collect these young students from the bus, resulting in another teacher having to retrieve them. Later on the day in question, the Member was verbally rude to Grade 5 students, pushing a few of these students out of her way while in the classroom.

(d) On or about February 9, 2006, the Member disciplined a Grade 7 male student by instructing this male student to sit, coatless, on the steps outside of the portable classroom, despite the cold weather.

5. The Member does not contest, for the purposes of this proceeding only, that the facts set out in paragraph 4 above constitute professional misconduct, being more particularly a breach of Ontario Regulation 437/97 1(5), and pleads no contest to this allegations of professional misconduct.

6. By this document the Member states that:

- (a) she understands fully the nature of the allegations against her;
- (b) she understands that by pleading no contest to the allegations, she is waiving the right to require the College to prove the case against her and the right to have a hearing;
- (c) she voluntarily decided to plead no contest; and
- (d) she understands and acknowledges that she is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

7. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of 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 *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 her as to the facts or findings in any other civil, criminal or administrative proceeding.

8. In light of the uncontested facts and the Member's plea of no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee find the member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

9. 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) require the Member to appear before the Committee to be admonished and the fact of the admonishment to be recorded on the Public Register for a period of six (6) months;
- (b) direct the Registrar to impose a term, condition or limitation on the Member's certificate:
 - (i) requiring the Member to enrol in and complete, at her own expense, within ninety (90) days of the date of this Order, a course of instruction, pre-approved by the Registrar, in appropriate student discipline techniques and boundaries;
 - (ii) requiring the Member to provide to the Registrar proof of successful completion of the course referred to in (i) above within thirty (30) days following such completion; and
- (c) direct that there be publication of the findings and Order of the Committee in summary form in the official publication of the College, *Professionally Speaking/Pour parler profession*. The parties have not agreed on whether or not such publication should include the Member's name and submissions will be made to the Committee on that issue.

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

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 for the College and counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Charity Chika Ogoke committed acts of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 1(5).

REASONS FOR DECISION

The Member does not contest the facts and exhibits referred to in paragraph 4 of the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty* (ASF - Exhibit 2). She does not contest that the facts referred to in paragraph 4 constitute professional misconduct and pleads no contest to the allegation of professional misconduct against her, specifically a breach of Ontario Regulation 437/97 subsection 1(5). The Committee accepted the Member's plea of no contest and the *Agreed Statement of Facts, Plea of No Contest, and Joint Submission on Penalty*.

Submissions of College Counsel Regarding Publication

After reviewing the Agreed Statement of Facts, College Counsel submitted that publication should include the name of the Member to act as a general and specific deterrent. She submitted that publication of the Member's name promotes confidence in the College's discipline process. Counsel stated that the hearing was held in public and therefore the Member's name should be published. She indicated that while the misconduct occurred a few years ago, there were a number of situations and students involved and that publication would demonstrate transparency.

Submissions of Member's Counsel Regarding Publication

Counsel for the Member requested that the name of the Member not be published. He reminded the Committee that there was no presumption in favour of publication in the Act, and that each case should be considered on its own merits. Counsel submitted that this was a proper case for the Committee to use its discretion because of nature and timing of the conduct. He submitted that the conduct was neither serious, nor egregious and that public safety was not at issue. This was the Member's first year of employment with this Board. Since the Member completed a course of instruction in appropriate student discipline techniques and boundaries, there has been no evidence of further misconduct. Further, the Member satisfied her employer's expectations and remains with the Board. Counsel further submitted that the College agreed the conduct was relatively minor as the joint submission on penalty included an admonishment, the fact of which would be removed from the Public Register after six months.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Member is required to appear before the Committee to be admonished and the fact of the admonishment is to be recorded on the Public Register for a period of six (6) months;
2. The Registrar is directed to impose a term, condition or limitation on the Member's certificate:
 - i. requiring the Member to enrol in and complete, at her own expense, within ninety (90) days of the date of this Order, a course of instruction, pre-approved by the Registrar, in appropriate student discipline techniques and boundaries; and
 - ii. requiring the Member to provide to the Registrar proof of successful completion of the course referred to in (i) above within thirty (30) days following such completion.
2. Pursuant to Section 30 (5) (3) of the *Ontario College of Teachers Act*, the findings and order of the Committee shall be published in summary, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The Committee determined that the course regarding appropriate student discipline techniques and boundaries would serve to improve the Member's teaching skills and the admonishment would serve as a caution. Successful completion of this course is an assurance that the public interest is protected.

The Committee ordered that the findings and order of the Committee be published in summary, without the name of the Member. The Committee did not believe in this case that publication of the Member's name was necessary for the following reasons:

- (a) The act of professional misconduct was relatively minor in nature;
- (b) Both parties had agreed in the Joint Submission on Penalty that the fact of the admonishment would only remain on the Register for six months, when the norm would be three years;
- (c) there was no evidence before the Committee of any further misconduct;
- (d) the admonishment and the requirement to take a remedial course was sufficient penalty to deter the Member from further such conduct.

Publication in summary, even without the name of the Member, still serves as a general deterrent to the profession and serves to protect the public interest.

Date: November 12, 2008

John Tucker
Chair, Discipline Panel

Dean Favero
Member, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel