

**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 Trace John Lawrence Ouellette, Member of the Ontario College of Teachers.

PANEL: Marilyn A. Laframboise, Chair
Rosemary Fontaine
Eileen Walker

BETWEEN:)	
)	
)	
ONTARIO COLLEGE OF TEACHERS)	Nadine Carpenter, Dispute Resolution Administrator, for Ontario College of Teachers
)	
- and -)	Ian Fellows, Green & Chercover, for Trace John Lawrence Ouellette
TRACE JOHN LAWRENCE OUELLETTE (CERTIFICATE #271454))	
)	Paul Le Vay, Stockwoods, Independent Legal Counsel
)	
)	Heard: November 10, 2005
)	

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 10, 2005 at the Ontario College of Teachers (the “College”) at Toronto.

Trace John Lawrence Ouellette, (the “Member”) was not in attendance at the hearing.

A *Notice of Hearing* dated August 15, 2005, was served on the Member, requesting attendance before the Discipline Committee of the Ontario College of Teachers on November 10, 2005 to hold a hearing, and specifying the charges.

The Allegations

The allegations in the *Notice of Hearing* dated August 15, 2005 are as follows:

IT WAS ALLEGED that Trace John Lawrence Ouellette is guilty of professional misconduct as defined in subsections 30(2) and 40(1.1) of the *Ontario College of Teachers Act* (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, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (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 437/87, subsection 1(18);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (f) he engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the Act.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. At all material times, the Member was employed by the Peel District School Board (the “Board”) as a History teacher at Erindale Secondary School (the “School”).
2. At all material times, [■] was a [■] female student, in [■], at the School.
3. During 2003 and 2004, the Member engaged in a sexual relationship, which included having sexual intercourse with [■] [■] was never taught by the member but did attend the school at which the member taught.
4. On or about December 4, 2003, two of [■]’s friends reported the Member’s relationship with [■] to school authorities.
5. On or about February 25, 2004, the Board terminated the Member’s employment, for cause.

Member’s Plea

The Member, Trace Ouellette, pleads no contest to the allegations of professional misconduct contained in paragraphs 1 through 5 of the *Notice of Hearing* and breaches of Ontario Regulation 437/97, particularly subsections 1(5), 1(7), 1(14), 1(18) and 1(19), and sections 1 and 40(1.1) of the *Act* as set out in the *Notice of Hearing* dated August 15, 2005.

Memorandum of Agreement

Counsel for the College advised the Committee that subject to ratification by the Committee, agreement had been reached on the facts and introduced a *Memorandum of Agreement (MOA)*, (Exhibit 3) which provides as follows:

Agreed Statement of Facts

In view of the Member's plea of no contest, the parties agree that the information hereinafter expressed may be relied on by the College and may be received by the Discipline Committee. The plea of no contest is made solely for the purpose of the disciplinary hearing at the College and is not an admission of the allegations for any other purpose.

1. At all material times, the Member was employed by the Peel District School Board (the "Board") as a History teacher at Erindale Secondary School (the "School").
2. At all material times, [REDACTED] was a [REDACTED] female student, in [REDACTED], at the School.
3. During 2003 and 2004, the Member engaged in a sexual relationship, which included having sexual intercourse with [REDACTED] [REDACTED] was never taught by the Member but did attend the school at which the member taught.
4. On or about December 4, 2003, two of [REDACTED]'s friends reported the Member's relationship with [REDACTED] to school authorities.
5. On or about February 25, 2004, the Board terminated the Member's employment, for cause.
6. By this document, the Member pleads no contest to the allegations contained in this section of the *MOA* and in the *Notice of Hearing* issued on August 15, 2005 and

attached as Appendix A.

7. The Member voluntarily pleads no contest to the allegations contained in this section of the *MOA* and in the *Notice of Hearing* and understands that by doing so, he is waiving the right to require the College to prove the allegations against him and the right to a hearing.

Joint Submission on Penalty

The parties agree to resolve the matter as follows:

1. The Member agrees and understands that upon ratification of this *MOA*, the Discipline Committee shall find him guilty of professional misconduct and, pursuant to section 30(4) of the *Ontario College of Teachers Act, 1996*, shall direct the Registrar to revoke his certificate of qualification and registration.
2. The Member agrees and undertakes that upon ratification of this *MOA*, he shall immediately surrender his certificate of qualification and registration to the Registrar.
3. The Member agrees and understands that should he apply for a new certificate of qualification and registration, pursuant to section 33 of the *Ontario College of Teachers Act, 1996*, the Discipline Committee shall review this *MOA* in considering the application.
4. Subject to paragraph 3, the Member agrees and undertakes not to seek or engage in employment where a certificate of qualification and registration is required.
5. The Member agrees and understands that upon ratification of this *MOA*, the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, shall include the following information:

On November 10, 2005, Member pleaded no contest to professional misconduct.
Revoked. Publication.

6. The Member agrees and understands that upon ratification of this *MOA*, the College shall publish his name with a summary of the complaint, including the Member's plea of no contest, and the resolution as contained in this *MOA*. Such publication will be made in the College's official publication, *Professionally Speaking/Pour parler profession*, on the College web site, and in such other manner as deemed appropriate by the Registrar.
7. The Member agrees and understands that upon ratification of this *MOA*, the College shall provide notice of the revocation of the Member's certificate of qualification and registration to those education authorities routinely notified of such disciplinary action, including but not limited to school boards, federations, affiliates, licensing bodies, and governing bodies.
8. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with this *MOA* and the *Notice of Hearing*, which will be marked as Exhibits and will constitute the evidence against the member upon which the no contest plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.
9. The parties agree and understand that if any phrase or paragraph of this *MOA* is deemed null and void, the *MOA* shall be read as though the phrase or paragraph was stricken from the *MOA* and the amended *MOA* shall remain in force and effect.
10. The Member agrees and understands that this *MOA* is the entire agreement between himself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this *MOA*.

11. The Member agrees and understands that should he breach this *MOA* by seeking or engaging in employment where a certificate of qualification and registration is required, the College may provide a copy of this *MOA* to any employer, licensing body, or education authority who inquires about his record with the College.
12. The Member agrees and understands that, in the event he breaches a term of this *MOA*, he is estopped from alleging, by way of defence, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date that the College becomes aware of such a breach.
13. The Member agrees and understands that, in the event he breaches a term of this *MOA*, the College may provide the Investigation, Executive, Discipline or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate.
14. The parties agree and undertake that upon ratification of this *MOA*, there shall be no further action taken, no appeal to any forum, and no application for judicial review of the terms of the *MOA*.

Decision

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, the plea of no contest therein, and the submissions made by counsel, the Committee accepts the plea of no contest and finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Trace John Lawrence Ouellette committed acts of professional misconduct as alleged, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(18) and 1(19) and sections 1 and 40(1.1) of the *Act*.

Penalty

The *Memorandum of Agreement* contains a joint submission on penalty as set out above.

Penalty Decision

The Committee accepts the joint submission on penalty as set out in the *Memorandum of Agreement* and accordingly makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
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, with the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Decision

The Member engaged in a sexual relationship, which included having sexual intercourse with a [REDACTED] female secondary school student who attended the school where he taught. The Committee finds the Member's conduct to be reprehensible and unbecoming a member of the profession.

Accordingly, the Committee is satisfied that revocation of the Member's certificate of qualification and registration is the appropriate penalty for such egregious conduct and meets the objective of specific deterrence to the Member. The Committee is also

satisfied that publication meets the objective of general deterrence to members of the profession.

The Committee concludes that this penalty serves and protects the public interest.

Date: November 10, 2005

Marilyn A. Laframboise
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Eileen Walker
Member, Discipline Panel