

**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  
Stephen Owusu-Ansah, a member of the Ontario College of  
Teachers.

PANEL:            Don Cattani, Chair  
                      Audrey Hadfield  
                      Lou Watson

BETWEEN:	)	Carole Jenkins & Brian Wasyiliw,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers
ONTARIO COLLEGE OF TEACHERS	)	
	)	
- and -	)	
	)	
STEPHEN OWUSU-ANSAH	)	Stephen Owusu-Ansah was not
(CERTIFICATE # 206890)	)	present, nor was he represented
	)	
	)	Johanna Braden,
	)	Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: December 1 & 2, 2004

**REASONS FOR DECISION, DECISION AND ORDER (S)**

This matter came on for hearing before a panel of the Discipline Committee (the  
“Committee”) on December 1 and 2, 2004 at the Ontario College of Teachers (“the  
College”) at Toronto.

A *Notice of Hearing*, dated April 16, 2004 was served on Stephen Owusu-Ansah, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 3, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for December 1 and 2, 2004.

Stephen Owusu-Ansah 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 hearing was scheduled to commence at 9:30 a.m. The Committee waited for one half hour until 10:00 a.m. The Member had still not appeared and accordingly the Committee proceeded in the Member's absence.

### **The Allegations**

The allegations against Stephen Owusu-Ansah ("the Member") in the *Notice of Hearing* are as follows:

**IT IS ALLEGED** that Stephen Owusu-Ansah is guilty of professional misconduct or incompetence as defined in subsections 30(2) and 40 (1.1) of the *Ontario College of Teachers Act* (the "Act"), and/or is incompetent as defined in section 30(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 abused a student or students physically, sexually, verbally, psychologically, and/or emotionally contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) 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);
- (d) 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);
- (e) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (f) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*; and
- (g) 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.

**PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Stephen Owusu-Ansah (the "Member") is a member of the Ontario College of Teachers.

6. During March, 1995, while employed by the Board at [XXX] School (“[XXX]”), the Member:
- (a) on or before March 1, 1995, touched [XXX], a [XXX] female student on her breast;
  - (b) on or before March 2, 1995, touched [XXX], a [XXX] female student on her breast;
  - (c) on or before March 6, 1995, touched [XXX], a [XXX] female student on her breast;
  - (d) on or before March 6, 1995, touched [XXX], a [XXX] female student on her breast; and
  - (e) on or before March 6, 1995, touched [XXX], a [XXX] female student on her breast.

The Member touched [XXX], [XXX], [XXX], [XXX] and [XXX] on or about their breast area during the playing by the Member with the students of a game in class, where the Member would select students by touching them.

7. During the 1999/2000 academic year, including during March 2000, while employed at [XXX] School (“[XXX]”), the Member viewed inappropriate pictures, including pictures of nude women, on the computer in his classroom.

The images on the Member's computer screen were seen by at least three students.

8. On or about May 2000, while still employed at [XXX], the Member touched [XXX], a [XXX] female student in his class, on her buttocks and in or about her waist area. The Member's touching of [XXX] was witnessed by two of her female classmates.

At the hearing, the Committee permitted the College to withdraw the allegations of professional misconduct as set out paragraphs 2, 3, 4 and 5 in the *Notice of Hearing*.

#### **Publication Ban**

On December 1, 2004, the Committee made an order that there be no publication of any information that may disclose the identity of the students involved in this matter.

#### **Order for Release of Documents**

On December 1, 2004 the Committee made an order that the Children's Aid Society ("CAS") release the CAS records relating to the Member to the College.

#### **Member's Plea**

As the Member was not present, the Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing*. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

## **The Evidence**

### **Incidents - [XXX] School ("[XXX]")- March 1995**

Anne O'Connell ("O'Connell") taught physical education and health at [XXX]. She indicated that she had been a teacher for 17 years. On March 6, 1995, [XXX] and [XXX], [XXX] female, [XXX] students came to her health class in period two and reported an incident that had occurred in [XXX] class in the first period of the day. O'Connell reported that [XXX] and [XXX] were very upset. [XXX] informed her that something terrible had happened in the previous class. [XXX], a [XXX] female, [XXX] student joined in the conversation. All three students reported that, while playing a game called "Heads Up Seven Up" ("the game"), they had been touched on the breast by their [XXX] teacher, Stephen Owusu-Ansah ("the Member").

O'Connell first told the students she did not want to listen to gossip but it became apparent that this was something serious as determined by the demeanour and insistence of the students. O'Connell testified that [XXX] was very emotional and that [XXX] was angry.

The students described how the game was played and demonstrated to her what had happened to them during the course of playing the game. O'Connell described the game as played by the Member was one which required the students to place their

heads on their folded arms on their desks, with their eyes closed, whereupon seven students were chosen by being touched on the head or shoulder. During the game in question, the Member chose the students by touching. In this case, [XXX] and [XXX] reported being touched on the breast and O'Connell demonstrated what had happened, that the hand of the Member came along side the breast and pressed in. She stated that she did not consider the game to be appropriate to play because students' eyes were closed and the game was certainly not suitable for [XXX] students.

O'Connell reported the incident at the end of second period, to the principal, Collette Ohlke (now Dowhaniuk).

Collette Dowhaniuk ("Dowhaniuk") testified that she had been a classroom teacher for 11 years, a principal for 14 ½ years and was the principal at [XXX] from 1990 to 1999. On March 6, 1995, O'Connell reported to her that three students had disclosed that the Member had touched their breasts. Dowhaniuk met with the students, [XXX], [XXX] and [XXX] who repeated and demonstrated, as they had with O'Connell, what had happened to them. She made notes of what the students reported. She indicated that the emotions of the students ran the gamut of: anger, dismay, tears, embarrassment, squirming and obvious discomfort. She never doubted the credibility of the students and indicated that they were highly regarded by students and staff. Dowhaniuk notified the Board, Children's Aid Society (CAS) and the police.

On March 7, 1995 the Member was arrested at the school. That morning three [XXX], female students, [XXX], [XXX] and [XXX] had come forward with similar complaints about the Member.

Dowhaniuk testified that on the first day of each school year, the policies and procedures for the school and that of the Board were reviewed with all staff. The Routines and Policies at [XXX] regarding child sexual abuse protocol includes the statement: "Do not touch".

Dowhaniuk stated that these policies were reviewed with staff on a regular basis and that the Member was certainly aware of the policies.

Dowhaniuk testified that the game was one which was usually played with primary students and was inappropriate at the [XXX] level. She indicated that during the game, the touching was usually done by another student, not the teacher. She had concerns about any game whereby the teacher touched students.

Dowhaniuk was of the opinion that the Member was unsuitable to hold teaching qualifications. She said, based on her 28 years of experience in education, that the Member should absolutely not be anywhere in the profession.

Francey McKenzie testified that she was a supervisor with CAS in Toronto. She produced the CAS records which had been ordered released by the Committee relating to the Member. CAS investigated the alleged incidents of sexual abuse and verified on the children's statements that the Member had been sexually inappropriate with three of his students, being [XXX], [XXX] and [XXX]. As a result, the Member was placed on the Child Abuse Register on the recommendation of the Child Abuse Team. The Member was informed by the Ministry of Community and Social Services that he had been placed on the Child Abuse Register and given an opportunity to examine the Register and request that his name be removed or amended. The Member did not respond.

[XXX], [XXX] old, is currently employed and completing post secondary studies. [XXX] testified that on March 6, 1995, when she was a [XXX] [XXX] student in [XXX] class, in first period, while playing the game, "Heads Up Seven Up", the Member touched her on the right breast. [XXX] demonstrated how this had occurred. With her head on the desk, rested on her folded arms, and her eyes closed, her breast was below the lip of the desk. The Member touched her breast with an open palm, moving his hand from the front of her breast to the back of the breast. [XXX] reported that she was shocked and scared. After being touched, she was required to go to the front of the class where she spoke to [XXX] who was already at the front of the class and told [XXX] that the Member had touched her breast. [XXX] told [XXX] that the same thing had just happened to her.

[XXX] indicated that at the beginning of the next period that she and [XXX], later joined by [XXX], informed O'Connell that the Member had touched them.

[XXX] was shocked, upset, scared, nervous and felt violated. She said it is very hard emotionally to get over this and indicated that no teacher has the right to touch students in the wrong places. She indicated that it was hard to go through high school dealing with teachers and boys. The Committee noted that [XXX] became flushed and teary at this point in her evidence.

[XXX], [XXX] of age, is a university graduate currently working and aspiring to be a lawyer. [XXX] corroborated the procedures of the game and demonstrated the position of her head on the desk. She demonstrated how the Member touched her on the right breast with an open palm, which was pressed inward and held for a few seconds. She said that she had played this game in grades 3 and 4 when the teacher would call out the names of the first seven students. Their heads were not down, their eyes were open, and there was no touching involved. She alleged that the Member altered the rules of the game in that he chose the students by touching them, with their heads down and their eyes closed. She was the first person selected and once at the front of the room, she felt confused and uncomfortable. She wondered why the Member touched her on the breast and not on the head or shoulders. [XXX] reported that [XXX] was the second student selected and told her, "Mr. A's a pervert; he touched me on the breast", to which [XXX]

replied that he had done the same to her. [XXX] then observed that the Member touched the other students on the head or the shoulders.

[XXX] indicated that at the beginning of the next period that she and [XXX], later joined by [XXX] informed O'Connell that the Member had touched them.

[XXX] feels angry about what happened, that the Member was not convicted and could therefore do this again. Her aspiration to become a lawyer is based on her experience with the Member and her desire to help other students in similar occurrences. She never wants to see him again and still feels stressed if she sees someone who looks like him because it brings back the memory of the incident. She strongly emphasized that the Member should never be in a classroom.

[XXX], [XXX] and [XXX] were called to the office to speak with the principal. Later in the day, the police and the CAS representative interviewed them.

The Member was subsequently charged with 5 counts of sexual assault and 5 counts of sexual interference. A trial was held in the matter where the students testified. Judge S. Merenda, in his Reasons for Judgment dated September 18, 1997, (Exhibit 36), found that the Member touched [XXX], [XXX], [XXX] and [XXX] on the breast during the game. He indicates on page 6:

"I'm prepared to accept that on the dates in question...each of the four complainants were touched by the accused in the area of the side of their breast." However, Judge Merenda was not satisfied beyond a reasonable doubt that the touching was intended or of a sexual nature and the Member was acquitted.

**Incidents at [XXX] School ("[XXX]") - 1999 to 2000**

Marie Adams (Adams) was the principal of [XXX] until June 2000. She testified that she had 33 years experience in education. On June 1, 2000 she had interviewed five students who told her about seeing pictures of naked women on the Member's computer screen in the classroom. She provided the Committee with handwritten notes of her interviews with these five students (Exhibit 17). The school did not retrieve any images from the Member's computer and none were presented to the Committee. When Constables Lahey and LeBoeuf later interviewed the students, most of them indicated that when they approached the Member and these pictures were on the computer screen, he turned the screen away and/or told the students to go away.

Marie Adams produced notes written by B. Nasimok, a grade 4 teacher, concerning an incident that happened at [XXX] on May 30, 2000. The notes indicate that [XXX], a [XXX], [XXX] old female student, had come to her upset and crying because of an incident with her [XXX] teacher, the Member. [XXX] reported that upon leaving the class, the Member called her back, told her to turn around and placed one hand on her belt buckle and one hand on her bottom. [XXX] asked "What are you doing?" and the Member put his hands on his knees quickly. Two other female [XXX] students

witnessed this incident. The Member claimed that she had missed a belt loop. The incident was reported to the principal, Adams. Adams advised Nasimok to inform CAS about the incident.

Constable Mary Lahey ("Lahey") was a uniformed police officer with the Toronto Police, who, in 2000, was assigned to the Youth Bureau dealing with child abuse and sexual assault. Lahey and her partner, LeBouef, interviewed [XXX] Lahey testified that the interview was conducted at the "Gatehouse", which was a safe house for children with a child-friendly atmosphere. Lahey decided to interview [XXX] at the Gatehouse because she was very young, upset and embarrassed. Lahey and LeBouef also interviewed the two other students who had witnessed the incident.

The Member was subsequently charged with sexual assault and sexual interference and a hearing was held on June 21, 2001. The charges were withdrawn when the Member resigned his teaching position and on the Member's undertaking that he would not teach in Canada and that he planned to leave for Ghana on June 23, 2001. Lahey also testified that the parents of [XXX] did not want to put their child through a lengthy, embarrassing trial.

## **Decision**

### **(i) Onus and Standard of Proof**

The College bears the onus of proving the allegations in accordance with the standard of proof with which the Committee is familiar as set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, was a balance of probabilities with the qualification that the proof must be clear and convincing and based upon cogent evidence accepted by the Committee. The Committee also recognized that the more serious the allegations to be proved, the more cogent must be the evidence. The Committee considered the allegations in this case to be very serious.

### **(ii) Decision**

Having considered the evidence and onus and standard of proof, and 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 Stephen Owusu-Ansah committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7) 1(14), 1(15), 1(18) and 1(19).

Further, the Committee finds that the Member engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the Act. In addition, the Committee finds that the Member 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.

### **Reasons for Decision**

The Committee finds that the Member, during March 1995 while employed at [XXX] touched [XXX], [XXX], [XXX] and [XXX] on their breasts while playing the game during [XXX] class. The Committee makes no finding as to [XXX] as there was insufficient evidence presented to make any finding.

The Committee found that all witnesses who testified regarding the incidents of March 1995 provided clear and cogent evidence supporting the allegations of the touching of the students' breasts.

The Committee found the evidence provided by O'Connell, Dowhaniuk and McKenzie was given in a candid and straightforward manner. Detailed notes that were written at the time of the incidents were provided to the Committee. The notes and the evidence of these three witnesses, all of whom are experienced professionals, were consistent. All three expressed strong convictions that the Member had touched the students in an inappropriate manner.

The testimony of the students who testified, [XXX] and [XXX], was compelling. [XXX] was soft-spoken, straightforward and candid in her account of the incident. She was

convincing in her description and demonstration of the event. From her demeanour it was clear to the Committee that the incident was very troubling to her and has continued to affect her to this day. Her report to the Committee was consistent with the report she made at the time of the incident.

[XXX] was equally candid and straightforward in her description and demonstration of the incident. She testified in a logical, clear and convincing manner. Her ambition now to become a lawyer speaks to the significant impact this event has had on her. Like [XXX], her report to the Committee was consistent with the report she made at the time of the incident.

The Committee is convinced by the testimony of [XXX] and [XXX] that the Member did touch these students in an inappropriate manner for a sexual purpose.

The Committee did not draw any adverse conclusions from the fact that the three other students who had reported similar incidents did not appear to testify. College counsel was unable to serve [XXX], [XXX] and [XXX]. However, [XXX] telephoned Jennifer Robinson, Law Clerk with McCarthy Tétrault, saying she was aware someone was attempting to serve her. [XXX] confirmed that she knew the Member and stated, "I do not wish to talk about this all again. Just to talk to you is disturbing me now. It was very painful and I don't want to talk about this again." (Affidavit of Jennifer Robinson, Exhibit 38). However the Committee did receive evidence from the testimony and notes

of the principal Dowhaniuk and those of Clarfield with respect to these three students. (Notes of Clarfield, Exhibit 33).

Judge S. Merenda, in his Reasons for Judgment dated September 18, 1997, (Exhibit 36), found as a fact that the Member touched [XXX], [XXX], [XXX] and [XXX] on their breasts while playing the game but was not satisfied beyond a reasonable doubt that the touching was intended or of a sexual nature and the Member was acquitted.

Although the Judge was left with reasonable doubt as to sexual intent of the Member, the Committee has no such doubt. The Committee finds that the touching of these four students breasts was of a sexual intent.

The game, as played by the Member, created an opportunity for him to touch students inappropriately and to make the students vulnerable. The manner in which the students were instructed to put their heads and arms on their desk, rendered their breasts to be behind and below the edge of the desks so they were vulnerable. In this position, the Member would have had to make a conscious effort to reach down to make contact with the students' breasts. The action could not be accidental or inadvertent. The Committee finds that these actions were intentional.

The Committee finds that the Member was engaged in viewing inappropriate images of naked women on the computer screen in [XXX] class in March of 2000 at [XXX]. The Committee was not presented with hard evidence of the images.

Adams testified that she interviewed at least four students who reported seeing images of naked women on the Member's computer screen during class. Constable Lahey subsequently stated that upon interviewing the students, they revealed that when they approached the Member in class, he turned the computer screen away and/or told them to go away. Adams and Lahey submitted notes of their interviews as exhibits.

The Committee finds that the Member did touch a [XXX] female, [XXX] student, [XXX], at [XXX] on May 30, 2000. Adams testified that [XXX] had approached a teacher, Nasimok, upset and crying because of an incident with her [XXX] teacher, the Member. Two other students witnessed the incident. Subsequently the incident was reported to CAS and the police. After Lahey determined the facts, the Member was charged with sexual assault and sexual interference. The charges were withdrawn because the Member resigned his employment, undertook not to teach in Canada and stated his intention to leave for Ghana. Although there was no criminal finding, the Committee determined that inappropriate touching of [XXX] did occur.

Section 32.02 of the By-laws of the Ontario College of Teachers confirms that members of the College in their position of trust and influence must "maintain professional

relationships with students”, “recognize and respect the privileged nature of the relationship that teachers maintain with students”, and “act with integrity, honesty, fairness and dignity”. The Committee finds that the Member breached these standards of the profession and accordingly breached section 264 (1) (c) of the *Education Act* and Ontario Regulation 437/7, subsections 1(5), 1(7), 1(14), 1(15), 1(18), 1(19) and that he engaged in sexual abuse of students of a nature defined in sections 1 and 40(1.1) of the Act by his inappropriate touching of students and by viewing pictures of naked women on his computer screen during class time, with students present.

The Committee finds that the Member’s touching of students was for a sexual purpose and showed a disregard for the welfare of students of a nature or extent that demonstrates that the Member is unfit to carry out his professional responsibilities pursuant to section 30(3) of the *Act*.

### **Penalty**

Counsel for the College submitted that the appropriate penalty be as follows:

1. revocation of the Member’s certificate of qualification and registration;
2. costs in the amount of \$5,000 per day of hearing to be paid by the Member to the College; and
3. publication of the findings and Order of the Committee, with the name of the Member in *Professionally Speaking/Pour parler profession*.

### **Penalty Decision**

The Committee 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) (4), the Committee fixes costs to be paid by the Member to the College in the amount of \$5,000.
3. 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, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession.*

### **Reasons for Penalty Decision**

The Committee finds that the actions of the Member violated the boundaries that must exist between teachers and students. He abused the power and trust vested in him in his role as a teacher by inappropriately touching female students.

The Member was well aware that, as a teacher, he was not to touch students. Despite this he played a game with students where the touching of students was intentionally

involved and used this opportunity to inappropriately touch students on their breasts. It was evident from the testimony of the witnesses that the Member had altered the rules of the game. The standard rules did not include the teacher to be involved in the game. The Committee concluded that the only feasible reason for the Member to change the rules was to provide him the opportunity to inappropriately touch the female students in a surreptitious manner.

The Committee determined from the evidence and testimony presented with respect to the three incidents that the Member did not fulfill the requirements of a teacher under the Act, the regulations and the standards of the Ontario College of Teachers. Specifically, his conduct is reprehensible of someone who is in a position of trust and responsibility of students. He violated the dignity and trust of the students. He should not be in a position of teaching students.

The penalty must meet the objective of general deterrence to members of the profession and the objective of specific deterrence to the Member. Accordingly, the Committee was satisfied that revocation of the Member's certificate of qualification and registration and publication of the findings and order, in summary, with the name of the Member is the appropriate penalty and is in the public interest.

The Committee ordered the Member to pay costs in the amount of \$5,000 because of the inordinate costs incurred by the Ontario College of Teachers in attempting to locate and communicate with the Member.

The Committee is satisfied that this decision serves and protects the public interest.

Date: December 9, 2004

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Don Cattani  
Chair, Discipline Panel

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Audrey Hadfield  
Member, Discipline Panel

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Lou Watson  
Member, Discipline Panel