

**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 Robert Charles Palmateer, OCT, a member of the Ontario College of Teachers.

PANEL: Brent Hamelin, OCT, Chair
 Anne Marie Levesque
 Hanno Weinberger, OCT

BETWEEN:	)	Erica Richler,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
	)	Patricia D’Heureux,
	)	Cavalluzzo Hayes Shilton McIntyre
	)	and Cornish,
ROBERT CHARLES PALMATEER	)	for Robert Charles Palmateer
(CERTIFICATE #240295))	
)	
	)	Bonni Ellis,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: April 13, 2010

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on April 13, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated September 8, 2009 was served on Robert Charles Palmateer, requesting his presence on September 21, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for April 13, 2010.

Robert Charles Palmateer was in attendance.

THE ALLEGATIONS

The allegations against Robert Charles Palmateer in the *Notice of Hearing*, (*Exhibit 1*) dated September 8, 2009, are as follows:

IT IS ALLEGED that Robert Charles Palmateer 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 or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) 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 thereunder, contrary to Ontario Regulation 437/97, subsection 1(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);
and
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on April 13, 2010, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (b), (c) and (e) above, namely that the Member breached Ontario Regulation 437/97, subsections 1(7), 1(15) and 1(19). The Committee agrees that these allegations shall be withdrawn.

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

STATEMENT OF UNCONTESTED FACTS

1. Robert Charles Palmateer (the “Member”) is 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. At all material times, the Member was employed by the Thames Valley District School Board (the “Board”) as an elementary school teacher. The Member was assigned to [XXX] School (the “School”) in London.
3. During the 2007-2008 academic year, Student No. 1 and Student No. 2 were male grade [XXX] students at the Member’s School.
4. During the 2007-2008 academic year, the Member acted unprofessionally towards Student No. 1 and Student No. 2 in that he crossed the appropriate boundary that teachers must maintain between themselves and their students. While the parties do not agree on all of the specifics of this conduct engaged in by the Member, they do agree that this conduct included:

- (a) The Member, during the course of conversations with Student No. 1, suggested that they attend at the Hockey Hall of Fame in Toronto and/or go to a London Knights Hockey Game. However, the Member did not pursue such an outing with Student No. 1;
- (b) The Member gave Student No. 1 a birthday card with the caption, “Happy Birthday Big Guy”, showing a group of bare-chested young boys flexing their muscles. The Member intended the card to be humorous and it was received by Student No. 1 in that vein;
- (c) The Member gave Student No. 1 a disposable camera that was in the Member’s classroom and suggested that if Student No. 1 took pictures of other students outside, the Member would develop the pictures. However, the camera was smashed and the film never developed;
- (d) The Member hugged and/or put his arm around Student No. 1;
- (e) The Member, on several occasions, allowed Student No. 1 and/or Student No. 2 to stay indoors with him during a part of the lunch hour and on occasion, left them unattended;
- (f) The Member, on several occasions, allowed Student No. 1 and Student No. 2 to watch “You-Tube” videos, unsupervised, on the school computer in his classroom. However, none of the videos watched were of an inappropriate nature; and
- (g) In a prior school year, the Member permitted or encouraged Student No. 1 and Student No. 2 to call him “Bobby”. However, thereafter requested that they cease doing so.

PLEA OF NO CONTEST

5. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and the exhibit referred to in paragraphs 1 to 4 above (the “Uncontested Facts”).

6. The Member hereby pleads no contest to the allegation that the Uncontested Facts referred to in paragraph 4 above constitutes professional misconduct, being more particularly a breach of Ontario Regulation 437/97 1(5) and 1(18 – unprofessional).

7. By this document the Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he 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) he 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) he 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) he understands that any agreement between his counsel and counsel for the College with respect to the penalty proposed in this document does not bind the Discipline Committee;
- (f) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and with the advice of legal counsel.

8. 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 the Member as to the facts or findings in any other civil, criminal or administrative proceeding.

9. 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

10. 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 directs:

- (a) that the Member be reprimanded by the Committee immediately following the hearing of this matter, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) the Registrar of the Ontario College of Teachers is directed to impose a term, condition or limitation (“term”) on the Member’s Certificate of Qualification and Registration, the fact of such term to be recorded on the Register of the College until such time as it is fulfilled that the Member is to enrol in and complete, at his own expense, a course of instruction regarding appropriate boundaries and boundary violation issues, approved by the Registrar, and that the Member shall deliver directly to the Registrar a written certification from the course provider that the Member has successfully completed the course; and

- (c) 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, without the Member's name.

DECISION

Having examined the Exhibits filed, and based on the plea of no contest, the *Statement of Uncontested 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 Robert Charles Palmateer committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) and 1(18 – unprofessional).

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibit referred to in paragraphs 1 to 4 (the “uncontested facts”) of the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty* (SUF - Exhibit 2). He acknowledged that the uncontested facts referred to in paragraph 4 above constitute professional misconduct and pleaded no contest to the allegations of professional misconduct. The Committee accepted the Member's plea of no contest and the facts in the *Statement of Uncontested Facts, Plea of No Contest, and Joint Submission on Penalty*.

During the 2007-2008 academic year, the Member acted unprofessionally towards two male students that crossed the appropriate boundary that teachers must maintain between

themselves and their students. The Member suggested to a student that they attend hockey games together in Toronto and London, even though he did not pursue these outings. The Member gave one of the male students a birthday card showing a group of bare-chested young boys flexing their muscles. The Member gave this same student a disposable camera and suggested taking pictures of students outside, however the camera was smashed and the film never developed. The Member hugged and put his arm around this same student. On several occasions, the Member left this student and one other unattended during part of a lunch hour and allowed them to use the school computer without supervision.

By this behaviour, the Member committed acts of professional misconduct, more particularly breaches of Ontario Regulation 437/97 subsections 1(5) and 1(18 – unprofessional).

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

- (a) the Member is to appear before the Committee, immediately following the hearing of this matter to receive a reprimand, and the fact of the reprimand is to be recorded on the Register of the Ontario College of Teachers;
- (b) the Registrar of the Ontario College of Teachers is directed to impose a term, condition or limitation (“term”) on the Member’s Certificate of Qualification and Registration, the fact of such term to be recorded

on the Register of the College until such time as it is fulfilled, that the Member is to enrol in and complete, at his own expense, a course of instruction regarding appropriate boundaries and boundary violation issues, approved by the Registrar, and that the Member shall deliver directly to the Registrar, a written certification from the course provider that the Member has successfully completed the course; and

- (c) 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 reprimand will serve as an educative component and as a specific deterrent to the Member. The course of instruction will provide a level of protection to the public and benefit the Member and students.

Publication of the findings and order promotes transparency of the process and will advise the public that the conduct engaged in by the Member is unacceptable and acts as a general deterrent to the profession. The Committee felt there was no need for publication of the Member's name in light of the nature of his behaviour and the facts of the case.

The Committee concludes that the decision is in the public interest.

Date: April 13, 2010

Brent Hamelin, OCT, Chair
Chair, Discipline Panel

Anne Marie Levesque
Member, Discipline Panel

Hanno Weinberger, OCT
Member, Discipline Panel