

**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 Joseph William Palmer, OCT, a member of the Ontario College of Teachers.

PANEL: Brent Hamelin, Chair
 Robert Ryan
 Pauline Smart

BETWEEN:)	
	)	Eli Mogil,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
	)	Bernard Hanson,
JOSEPH WILLIAM PALMER	)	Cavalluzzo Hayes Shilton McIntyre
(CERTIFICATE #183130)	)	& Cornish LLP,
	)	for Joseph William Palmer
)	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: November 5, 2009

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 5, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated June 19, 2009, was served on Joseph William Palmer, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on July 8, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for November 5, 2009. Joseph William Palmer was in attendance.

THE ALLEGATIONS

The allegations against Joseph William Palmer in the *Notice of Hearing*, (Exhibit 1) dated June 19, 2009 are as follows:

IT IS ALLEGED that Joseph William Palmer 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 *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);
and

- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the conclusion of the hearing, at the suggestion of the Committee, College Counsel sought to withdraw the allegations of professional misconduct contained in paragraphs (c) and (e) above, being alleged breaches of Ontario Regulation 437/97, subsections 1(14), 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. Joseph William Palmer (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 Peterborough Victoria Northumberland and Clarington Catholic District School Board and taught English at St. Stephen’s Catholic Secondary School (the “School”) in Bowmanville, Ontario.
3. On or about May 14, 2008, the Member engaged in a heated exchange with a male student of the school. This included the Member, while in the presence of other students and staff, yelling at that student in a school hallway and using swear words.

PLEA OF NO CONTEST

4. 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 3 above (“the Admitted Facts”). The Member hereby acknowledges that the facts referred to in paragraph 3, constitute professional misconduct and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 1(5), (7), (14), (15), (18 - unprofessional) and (19).

5. 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 and Exhibits as set out in paragraphs 1 to 3 above, being presented to the Discipline Committee at the hearing of this matter;
- (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 full hearing on these issues; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

6. 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, Ch. E23 for the purpose of this proceeding under the Ontario College of Teachers Act, 1996, S.O. 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 proceedings.

7. 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

8. 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 that the Member 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; and
- (b) directs that there be publication of the findings and Order of the Committee in summary form, without the Member's name, in the official publication of the College, Professionally Speaking/Pour parler profession.

9. By this document, the Member acknowledges his 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 *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 Joseph William Palmer committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7) and 1(18 - unprofessional).

REASONS FOR DECISION

The Committee accepted the Member's plea of no contest and the facts as outlined in the *Statement of Uncontested Facts*.

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 3 above and acknowledged that his conduct described in paragraph 3 of the Admitted Facts constitutes professional misconduct and pleaded no contest to the allegations of professional misconduct.

The Committee determined that the Member failed to maintain the standards of the profession in that he engaged in a heated exchange with a male student in a school hallway in the presence of other students and staff. The Member abused the student verbally in that during the yelling he used swear words. This type of encounter, taking place in a school hallway, in a heated manner, with students and staff present, is unprofessional.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Member is required to appear before the Committee to be reprimanded, with the fact of the reprimand to be recorded on the Register of the College.

2. Pursuant to Section 30 (5) (3) of the Ontario College of Teachers Act, the finding 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 reprimand of the Member serves to express the concern the profession would have in any member who would interact with a student by yelling and using swear words. The reprimand acts as a specific deterrent to the Member and the fact that the reprimand will be recorded on the Register serves as an additional deterrent to the Member.

Publication of the findings and order of the Committee, in summary, without the name of the Member, in *Professionally Speaking/Pour parler profession* provides a general deterrent to the profession, instructs the profession, and serves the public interest.

The Committee is satisfied that the penalty is appropriate in the circumstances and serves and protects the public interest.

Date: November 5, 2009

Brent Hamelin, OCT
Chair, Discipline Panel

Robert Ryan, OCT
Member, Discipline Panel

Pauline Smart
Member, Discipline Panel