

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

IN THE MATTER OF ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against David MacDonald Peckham

The Discipline Committee held a hearing on March 23, 1999,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**DAVID MACDONALD PECKHAM
CERTIFICATE #153978**

PRESENT:

Members of the Panel

Wayne Cornack (Chair)

Solette N. Gelberg

Paul Charron

The Honourable Robert Reid, Independent Counsel to the Panel

Mr. L. Thomas Forbes, Q.C. and Mr. Chris Sach-Anderson, Counsel for the Prosecution

David MacDonald Peckham was not present nor was he represented.

A Notice of Hearing, dated December 18, 1998 was served on David MacDonald Peckham, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 18, 1999 to set a date for hearing, and specifying the charges. The date for hearing was set at March 22, 1999. It is alleged that David MacDonald Peckham is guilty of professional misconduct 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 *Education Act*, Revised Statutes of Ontario, 1990 chapter E.2, or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- d) he contravened laws and those contraventions are relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- e) 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,

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

The Agreed Statement of Facts states that David MacDonald Peckham is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit 7).

On March 23, 1999 the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether David MacDonald Peckham was guilty of professional misconduct.

David MacDonald Peckham was not in attendance at the hearing, nor was he represented by counsel. Proof of service of the Notice of Hearing (Exhibit 1) was presented and accepted by the panel.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing (Exhibit 1), alleging that David MacDonald Peckham is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1(5), 1(7), 1(15), 1(16), 1(18), 1(19).

Particulars of the alleged misconduct are set out in the Agreed Statement of Facts (Exhibit 7).

An Agreed Statement of Facts was filed as Exhibit 7. That statement had been signed by David MacDonald Peckham.

FINDINGS OF FACT:

An Agreed Statement of Facts was filed as Exhibit 7. Based on the Agreed Statement of Facts and the court transcript, (Exhibit 3, Tab 22) the panel finds the following facts:

- (1) David MacDonald Peckham sent electronic mail communications of an inappropriate nature to “[█]”.

- (2) David MacDonald Peckham, being in a position of trust or authority towards “[█]”, a young person, did for a sexual purpose, touch directly the body of “[█]”, a young person, with a part of his body, to wit: his hands and his penis, contrary to the Criminal Code, section 153(1)(a).

Based on the evidence, the panel is satisfied that there was a relationship of a sexual nature that was inappropriate.

REASONS:

Based on the evidence presented in this case, the panel is of the view that the imposition of a suspension of 18 months is appropriate, as both a specific and a general deterrent.

We also note that subject to section 23(c) of the Ontario College of Teachers Act, such

suspension shall be on the register of the member, and be available as information to the public.

DECISIONS AND ORDERS:

The Committee finds David MacDonald Peckham guilty of professional misconduct under section 18 of the Professional Misconduct Regulation, “An act or omission that, having regard to all the circumstances, would reasonably be regarded by members as unprofessional”, and directs the Registrar to suspend David MacDonald Peckham’s Certificate of Qualification and Registration for a period of 18 months from the date this Decision and Order is signed.

The Committee also put a publication ban on the name of the victim, and stated that the victim is to only be identified by the initials “[REDACTED]”.

Pursuant to Section 30(5)(iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 23 rd DAY OF March, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE**

Wayne Cornack (Chair)

Solette N. Gelberg

Paul Charron