

**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 Reno Joseph Perlin, OCT, a member of the Ontario College of Teachers.

PANEL: Dean Favero, OCT, Chair
 Pauline Smart
 Jacques Tremblay, OCT

BETWEEN:	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Daniela De Bartolo,
	)	Litigation Paraprofessional
- and -)	
)	
	)	David Bloom,
	)	Cavalluzzo Hayes Shilton McIntyre
	)	& Cornish LLP,
RENO JOSEPH PERLIN	)	for Reno Joseph Perlin
(CERTIFICATE #173392))	
)	
	)	Richard Steinecke,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: December 16, 2010

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on December 16, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing* dated November 13, 2009 was served on Reno Joseph Perlin, requesting his presence on December 8, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for December 16, 2010.

Reno Joseph Perlin was in attendance.

THE ALLEGATIONS

The allegations against Reno Joseph Perlin in the *Notice of Hearing*, (Exhibit 1) dated November 13, 2009, are as follows:

IT IS ALLEGED that Reno Joseph Perlin 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, 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 be reasonably 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 December 16, 2010, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (a), (b), (c) and (e) above, namely that the Member breached Ontario Regulation 437/97, subsections 1(5), 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 an *Agreed Statement of Facts, Guilty and Joint Submission on Penalty* (ASF – Exhibit 2), which provides as follows:

AGREED STATEMENT OF FACTS

1. Reno Joseph Perlin (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 Toronto Catholic District School Board (the “Board”) and was a Grade 6 teacher at [XXX] School (the “School”), in Toronto, Ontario.
3. On or about the evening of March 18, 2006, during the course of a 3-day School trip on which the Member accompanied a group of Grade 6 students to an outdoor education centre, the Member posted two drawings and accompanying limericks on the girls’ dormitory window. Earlier that day, the Member and a number of students had participated in a game of ‘predator’ and ‘prey’. The Member, believing his drawings to be a continuation of the game-playing, depicted and/or referred to the ‘death’ of one of the Grade 6 female students in the dormitory room. Attached and marked as **Exhibit “B”** are copies of the Member’s drawings and associated limericks.

4. When these drawings and accompanying limericks were discovered by the female students, and particularly the female student who was the subject of the drawings and verses, the students were frightened and disturbed. They screamed and attracted the attention of a female teacher who was also on the trip. This female teacher removed the postings from the dormitory window and attempted to settle the girls.

5. The Member admitted that he had posted the drawings. The Member stated that he had not intended for these drawings and the verses to frighten or intimidate the female student named therein, nor did he intend to disturb or frighten any of the students. The Member had intended to entertain and amuse. The Member acknowledged that his conduct was inappropriate and showed a lack of judgment.

6. The Member received a letter of reprimand from the Board and was suspended for one week, without pay.

GUILTY PLEA

7. 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 6 above (the “Admitted Facts”).

8. The Member hereby acknowledges that the Admitted Facts referred to in paragraph 3 above constitute professional misconduct, being more particularly a breach of Ontario Regulation 437/97 1 (18 - unprofessional).

9. 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 Admitted Facts being presented to the Discipline Committee;
- (c) he understands that by pleading guilty 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.

10. In light of the admitted facts and circumstances and the plea of guilt, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

11. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in these matters would be that the Committee directs:

- (a) that the Member appear before the Committee immediately following the hearing of this matter to receive an admonishment and the fact of the admonishment is to be recorded on the Register of the Ontario College of Teachers for a period of six (6) months;

- (b) the Registrar to impose the following term or condition on the Member's certificate, the fact of such term or condition to be recorded on the Register of the College until such time as it is fulfilled:
- (i) the Member shall enrol in and attend at his own expense, within sixty (60) days of the date of the hearing of this matter, a course, pre-approved by the Registrar, that covers boundary violations and the student/teacher relationship, with particular emphasis on the recognition and protection of same;
 - (ii) within thirty (30) days of the completion of the course outlined in (i) above, the Member shall provide to the Registrar a written Certificate from the Course Provider stating:
 - A. that he or she has reviewed a copy of the Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty document made an exhibit at the hearing of this matter, and the Decision and Reasons of the Discipline Committee; and
 - B. 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. The parties have not agreed on whether or not the publication should include reference to the Member's name, and submissions will be made to the panel on this issue.

SUBMISSIONS ON PUBLICATION

College Counsel indicated that publication of the Member's name informs the profession of the workings of the Committee, that hearings are open to the public and publication of

the name of the Member fosters confidence in the process. Counsel suggested that withholding the name of the Member raises concerns and questions as to why the name was not published but indicated that it was within the discretion of the Committee.

Counsel supplied a case that had previously been heard by the Discipline Committee where the Committee published the name of the Member. College counsel indicated that the facts of that case were more serious than the one before the panel today as no cases are exactly alike.

Counsel for the Member submitted that the penalty is reasonable and proportionate and that publication is part of the penalty. He indicated that there was no presumption in favour of publication of the name of the Member and that the panel must look at the circumstances of each case. Counsel submitted that this case was not one of a serious nature, that it occurred several years ago, that it was a single incident and not part of a pattern and there was no evidence before the Committee of any further misconduct. Counsel pointed out that the parties did not seek to have the fact of the admonishment of the Member remain on the Public Register for the normal time period of 3 years. Instead the parties agreed that six months was a sufficient sanction. As a result, Counsel for the Member submitted that publication without name would be in line with the Agreed Statement of Facts and Joint Submission on Penalty.

Counsel for the Member provided six previous cases heard by the Discipline Committee in support of his submissions.

DECISION

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts, Guilty Plea 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 Reno Joseph Perlin committed an act of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 1(18 – unprofessional) as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 6 (the “Admitted Facts”) of the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*. He acknowledged that the Admitted Facts referred to in paragraph 3 above constitute professional misconduct and pleaded guilty to the allegations of professional misconduct. The Committee accepted the Member’s guilty plea and the facts in the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*.

During an overnight trip, following a game of ‘predator’ and ‘prey’ with the students, the Member posted two drawings and accompanying limericks on the girls’ dormitory window. After discovering these drawings and accompanying limericks, the female students, and particularly the female student who was the subject of the drawings and verses, were frightened and disturbed. They screamed and attracted the attention of a female teacher who was also on the trip. This female teacher removed the postings from

the dormitory window and attempted to settle the girls. By this conduct, the Member showed a lack of judgment and committed an act of professional misconduct, being more particularly a breach of Ontario Regulation 437/97 subsection 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 an admonishment, and the fact of the admonishment is to be recorded on the Register of the Ontario College of Teachers for a period of six months from December 16, 2010;
- (b) the Registrar of the Ontario College of Teachers is directed to impose the following term or condition on the Member's certificate, the fact of such term or condition to be recorded on the Register of the College until such time as it is fulfilled:
 - (i) that the Member is to enrol in and complete, at his own expense, within sixty (60) days from December 16, 2010, a course, pre-approved by the Registrar, that covers boundary violations and the student/teacher relationship, with particular emphasis on the recognition and protection of same;
 - (ii) within thirty (30) days of the completion of the course outlined in (i) above, the Member shall provide to the Registrar a written Certificate from the Course Provider stating:
 - A. that he or she has reviewed a copy of the Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty

document made an exhibit at the hearing of this matter, and the Decision and Reasons of the Discipline Committee; and

B. that the Member has successfully completed the course.

- (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 admonishment and the fact of the admonishment being recorded on the Public Register acts as a specific deterrent to the Member and demonstrates that professional misconduct is taken seriously by the College. The course on boundary violations and the student/teacher relationship serves to remediate the Member and acts as a specific and general deterrent. Proof of successful completion of this course will protect the public interest.

The Committee ordered that the findings and order of the Committee be published in summary, without the name of the Member. The Committee did not believe in this case that publication of the Member's name was necessary for the following reasons:

- (a) the act of professional misconduct was an isolated incident and minor in nature;
- (b) there was no evidence before the Committee of any previous or further misconduct;

- (c) the misconduct was minor in nature as demonstrated by the parties' agreement that the fact of the admonishment would remain on the Register for only six months, rather than three years, which is the norm;
- (d) the admonishment and the requirement to take a remedial course was sufficient penalty to deter the Member from further such conduct.

Publication in summary, even without the name of the Member, still serves as a general deterrent to the profession and serves to protect the public interest.

Date: December 16, 2010

Dean Favero, OCT
Chair, Discipline Panel

Pauline Smart
Member, Discipline Panel

Jacques Tremblay, OCT
Member, Discipline Panel