

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

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

**AND IN THE MATTER OF** discipline proceedings against Harvey James Rainbow.

The Discipline Committee held a hearing commencing on May 17, 1999,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**HARVEY JAMES RAINBOW  
CERTIFICATE #283145**

**PRESENT:**

Members of the Panel

Marilyn Laframboise (Chair)

George Merrett

Karen Mitchell

The Honourable Robert Reid and the Honourable Patrick Galligan, Independent Counsel to the Panel

L. Thomas Forbes, McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Chris Sach Anderson, Senior Law Clerk

Howard Goldblatt, Sack Goldblatt Mitchell, Defense Counsel, assisted by Doug Lefaiwe

Harvey Rainbow

Hearing Dates: May 17-19, 21, October 25-27, November 15-17, 1999, March 6-8, April 25-26, May 23, August 21, 22, 24, 2000

This decision is subject to a publication ban. On May 17, 1999, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identification of any of the students, or children, involved in this matter.

There have also been a number of rulings made by the Committee during the course of these proceedings. On March 9, 2001, the Committee issued its ruling on the substance of the member's preliminary objections regarding jurisdictional issues. The Committee ruled that at no time had the member waived his right to raise these objections.

It was not necessary for the Committee to consider the proceedings of the Investigation Committee because of an earlier ruling on the admissibility of certain evidence.

However, had the Committee been asked to do so, the Committee would have ruled that it had no jurisdiction to review the process used by the Investigation Committee.

It should be noted that early in the proceedings, the form and content of the Notice of Hearing was questioned. The Notice of Hearing was not amended and the Committee found it to be acceptable.

A Notice of Hearing, dated September 29, 1998 was served on Harvey James Rainbow, requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 19, 1998 to set a date for hearing, and specifying the charges. The hearing date was set for May 17, 1999.

It is alleged that Harvey Rainbow 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 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* and the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) he contravened a law or laws and that contravention is relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) he committed an act or 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 Notice of Hearing states that Harvey Rainbow is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit #1).

Commencing May 17, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Harvey Rainbow was guilty of professional misconduct.

## EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that Harvey Rainbow 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), (7), (15), (16), (18) and (19).

Particulars of the alleged misconduct are set out in Exhibit #1 and they are to the effect that:

1. Harvey James Rainbow is a member of the Ontario College of Teachers.
2. At all material times, Harvey Rainbow was employed as a teacher by the Victoria County Board of Education.
3. At all material times, [REDACTED] was a student of the Victoria County Board of Education and attended [REDACTED] in Victoria County.
4. On or between September 1993 and October 1995, Harvey Rainbow engaged in an improper and/or inappropriate relationship with [REDACTED], his student or former student. In September 1993, [REDACTED] was [REDACTED] years old.
5. On or between September 1994 and October 1995, Harvey Rainbow kissed [REDACTED], his former student. In September 1994, [REDACTED] was [REDACTED] years old.
6. On or about September 14, 1995, Harvey Rainbow told his wife that he was involved in an intimate relationship with [REDACTED]
7. On or between September 1993 and October 1995, Harvey James Rainbow:
  - (i) consistently abused the relationship of trust and authority between a teacher and his student;

- (ii) failed to observe the boundaries appropriate to a teacher's interpersonal relationships with students;
  - (iii) used journal writing to initiate close relationships with receptive adolescent girls;
  - (iv) provided more attention, opportunity and reinforcement to receptive girls than to others in his class;
  - (v) continued special relationships beyond the classroom;
  - (vi) exceeded the bounds of his professional competence and role with regard to the personal and family concerns of students;
  - (vii) used his special relationships with students to obtain psychological support related to his own personal problems; and
  - (viii) failed to appreciate that the responsibility for maintaining appropriate relationships with girls was his.
8. On October 22, 1996, Harvey Rainbow's employment with the Victoria County Board of Education was terminated.
9. On October 24, 1996, Harvey Rainbow was convicted of uttering a threat to [REDACTED] to cause her death and of two physical assaults on [REDACTED] on September 25, 1995 and October 1, 1995, contrary to the *Criminal Code of Canada* in respect of which he was sentenced to a total of seven months imprisonment and was placed on probation for a period of three years.

The Committee heard evidence from a number of witnesses that Harvey Rainbow engaged in an inappropriate relationship with [REDACTED], his student or former student. In September 1993, [REDACTED] was [REDACTED] years old.

[redacted], [redacted]'s mother, testified that as early as [redacted]'s Grade [redacted] year, 1993/94, she had concerns about her daughter's relationship with Harvey Rainbow. [redacted] initially spoke with another teacher and she stated that this teacher advised Harvey Rainbow of her concerns. Harvey Rainbow arranged a meeting between Principal Brian Hough, [redacted] and himself. Harvey Rainbow assured [redacted] that there was nothing personal between him and her daughter. [redacted] felt confused and not assured. She recognized that [redacted] had a crush on Harvey Rainbow. In [redacted]'s Grade [redacted] year, [redacted] was again concerned about the relationship and testified to an incident where she had a big argument with [redacted] which resulted in a phone call to Harvey Rainbow. Harvey Rainbow came to [redacted]'s home. [redacted] testified that there was a lot of yelling and screaming involving herself, [redacted], [redacted]'s brother, step-father and Harvey Rainbow. [redacted] stated her concerns to [redacted] [redacted], however, insisted they were just friends. Later in Grade [redacted], [redacted] was very defensive about her relationship with Harvey Rainbow which [redacted] now considered to be a boyfriend/girlfriend relationship. At that time, [redacted] told [redacted] to not have any further contact with Harvey Rainbow and [redacted] was upset by this. In the fall of 1995, [redacted]'s grade [redacted] year, after speaking with [redacted], Harvey Rainbow's wife, [redacted], along with [redacted]'s father and step-father, searched [redacted]'s room and found some letters from Harvey Rainbow to [redacted] (Exhibit #4). [redacted] considered the letters to be inappropriate.

[redacted] stated she had consulted with a lawyer about her concerns, and that the lawyer had sent a letter to the school board. Although the letter dated July 17, 1996 was not presented as evidence, both parties admitted to its existence. When presented with the

bill for over \$300 from the lawyer, [REDACTED] did not pursue this route. [REDACTED] did bring the letter to Principal Brian Hough.

[REDACTED] stated that she believes there was no physical relationship between [REDACTED] and Harvey Rainbow during this time. She believes that the current relationship with [REDACTED] and Harvey Rainbow began when Harvey Rainbow was in jail. [REDACTED] stated that she was aware that [REDACTED] and Harvey Rainbow were writing letters while [REDACTED] was in Grade [REDACTED]. [REDACTED] was delivering them because she drove a bus for [REDACTED] School where Harvey Rainbow taught. [REDACTED] also drove [REDACTED] to visit Harvey Rainbow in jail.

In her testimony, student [REDACTED] testified that she was aware of accusations being made about a relationship between [REDACTED] and Harvey Rainbow. She stated that she found out when she was in Grade [REDACTED] that there really was something between [REDACTED] and Harvey Rainbow and that it was at that point that she stopped being friends with [REDACTED]

Student [REDACTED]'s father, also known as [REDACTED], testified that he had initially acted as a surety for Harvey Rainbow following H.R.'s arrest for physical assault and uttering a death threat. However, he had concerns about communication occurring between Harvey Rainbow and [REDACTED] which was forbidden by the court. Under cross-examination, [REDACTED]'s father stated that he believed that if there were messages being passed, it was with Harvey Rainbow's knowledge. He also stated that Harvey Rainbow never denied to him trying to pass a note to [REDACTED] or having a note passed.

[REDACTED]'s father stated that prior to Harvey Rainbow's arrest, there were times that Harvey Rainbow would be in his home and would provide some snippet of information that bothered father [REDACTED] in the back of his mind, but that there was nothing concrete. Harvey Rainbow, in his testimony, denied having any contact either directly or indirectly with [REDACTED]. Harvey Rainbow testified that [REDACTED]'s father did ask him about any involvement with [REDACTED] but Harvey Rainbow denied admitting to it because there was no involvement.

[REDACTED]'s father testified that after the discussion regarding [REDACTED]'s journals with Harvey Rainbow, that his daughter, [REDACTED], became elusive. [REDACTED]'s father testified that he made sure that [REDACTED] was never really alone with Harvey Rainbow. He testified that the [REDACTED]'s and the Rainbows did not see much of each other the summer of 1995. [REDACTED]'s father testified that he did help Harvey Rainbow with bail later in the fall.

Harvey Rainbow testified that the family relationship with the [REDACTED]'s remained strong, and that [REDACTED]'s father came to his aid acting as a surety. He testified that after the break-up of his marriage, he went to church with them often, lunched with them, and in October, 1995 was as close to the [REDACTED]'s as he ever was.

Dr. Marjorie Perkins, ruled by the Committee to be an expert witness, testified that in her opinion, pursuing a personal relationship with a girl in Grade [REDACTED] who had been student in Grade [REDACTED], and taking the initiative to pursue that, even if it is called a friendship, is inappropriate. She also stated that in her view, a student/teacher relationship continues to exist, so long as both are involved in activities in which one is a teacher and one is a

student and they are working together or involved together in a project in a school.

Harvey Rainbow testified that [REDACTED] was involved at [REDACTED] as a [REDACTED] in her Grade [REDACTED] year.

The Committee received as evidence a tape recording of an interview of May 30, 1996 between Harvey Rainbow and investigator, Ruth Cohen (Exhibit #13). In this interview, Harvey Rainbow states that there had been no physical relationship between [REDACTED] and himself, except for one very innocent kiss. He stated that it was very innocent, that it was in a context that was not good, but that they dealt with it. He acknowledged to Ruth Cohen that he allowed the statement about the kiss to stand. [REDACTED], Harvey Rainbow's wife, testified that on September 14, 1995, Harvey Rainbow told her that he had kissed [REDACTED]. [REDACTED] testified that Harvey Rainbow also told her that he and [REDACTED] were involved in an intimate relationship. Harvey Rainbow denied telling [REDACTED] about any kiss.

[REDACTED] testified that there was no kiss. She stated that in her discussion with the investigating officer, Police Constable Cindy Quigley, that P.C. Quigley told her that she had to admit that there had been a kiss. She felt that because this was a person in authority, she had to comply. However, in her testimony, [REDACTED] was adamant in her denial that there had been a kiss. She said P.C. Quigley manipulated her into saying there had been a kiss. She testified that P.C. Quigley stopped the tape, that they went to her office and that P.C. Quigley told [REDACTED] to admit to a kiss.

P.C. Quigley testified that she first heard of the kiss from [REDACTED] during the interview. It hadn't been previously discussed. After the interview, nobody recanted the story about the kiss. In her meeting with the Crown attorney, [REDACTED] did not recant the kiss. P.C. Quigley denied attempting to compel [REDACTED] to lie about there having been a kiss.

[REDACTED] testified that Harvey Rainbow told her that he was involved in an intimate relationship with [REDACTED] and that he had kissed [REDACTED] and that their relationship continued to grow through the summer of 1995 when [REDACTED] was staying with the Rainbows. [REDACTED] stated that she allowed [REDACTED] to baby-sit for them the next night because she realized that Harvey Rainbow and [REDACTED] needed to talk. [REDACTED] testified that it was that night that she came downstairs and found both Harvey Rainbow and [REDACTED] asleep on the sofa. She stated that she woke [REDACTED] and Harvey Rainbow and that Harvey Rainbow and [REDACTED] discussed the relationship between himself and [REDACTED] in [REDACTED]'s presence.

[REDACTED] testified that the physical assault on her happened three days after that evening of conversation. On the Sunday morning, she stated that Harvey Rainbow lost his temper and patience, that he began to attack her, and that was when he tried to convince her to stay until Christmas, but that she said no.

Dr. Mary Arnold testified as an expert witness, and limited her report to [REDACTED]'s journal, [REDACTED]'s feelings about the journal, her parents' feelings about the journal, Principal Hough's testimony regarding the journal and Harvey Rainbow's comments about the journal. Dr. Arnold testified that she limited her report to [REDACTED]'s journal. She testified that her conclusion was that this was a highly inappropriate interpersonal relationship, clearly gone off-limits, crossing boundaries between a personal and professional relationship. In her opinion, Harvey Rainbow did not recognize that his conduct could adversely affect the well-being of this particular student, and he had seriously abused his professional responsibility in the manner in which he conversed with her in the

context of this journal. She stated that she felt strongly that Harvey Rainbow was misguided in his actions with his student, and that he had placed emotional strain on her that is dangerous to early adolescents. Dr. Arnold believed that this highly manipulative relationship had had impact on [REDACTED]'s family relationship. The relationship had created a sense of dependency on [REDACTED]'s part toward Harvey Rainbow, and this impacted on her peer relationships. [REDACTED] provided emotional support and comfort to her teacher rather than the opposite. Dr. Arnold stated that it seemed that the dominant theme in the journal focused on the interpersonal relationship between the teacher and the student, where they shared various ups and downs of their respective lives and provided support to each other in that context. The journal was not used for educational or instructional purposes. Indeed, it placed an inappropriate burden on the student.

[REDACTED]'s mother, [REDACTED], testified that when she found [REDACTED]'s journal, she was flabbergasted. She stated that she called Harvey Rainbow to express her concern, then met with him and [REDACTED]. They convinced her that she was mistaken which led to her feeling badly. She stated that Harvey Rainbow was concerned about her reaction and was sympathetic. The next day, [REDACTED] came to her house alone and was very angry, defensive and upset that [REDACTED]'s mother was accusing Harvey Rainbow of being inappropriate with [REDACTED]. A further discussion between the Rainbows and the [REDACTED]'s resulted in [REDACTED] becoming convinced that perhaps she was mistaken, adding that Harvey Rainbow "can just talk circles around people". The next day [REDACTED] was angry that her mother had looked at her journal. That made [REDACTED] suspicious for the rest of the school year although she stated that she had forgiven Harvey Rainbow. She added that the journal that was put into evidence was not the journal she had seen. However, she stated that after that, she received a cassette

from Harvey Rainbow on which he had taped a number of songs relating to personal relationships. She testified that from that point on until [REDACTED] graduated and into the summer, that the [REDACTED]'s did not have a lot to do with the Rainbows.

[REDACTED] testified that despite lingering doubts about the journal, she joined in support of Educator of the Year selection of the member, in part because she knew that [REDACTED] would soon be moving on.

[REDACTED]'s father testified that when his wife showed him the journal she had found, he wasn't too impressed. He said that it seemed kind of beyond teacher/student line of thought and out of the parameters of what a journal should really be following. He also testified that Harvey Rainbow came over with his wife and children to visit, and a heated debate over the journal ensued. The [REDACTED]'s had misunderstood the content of journals according to Harvey Rainbow and his wife. During the late spring, [REDACTED]'s father said he made sure that [REDACTED] was never really alone with Harvey Rainbow. He also confirmed that the families really didn't see each other that summer.

[REDACTED] testified that she wrote in four or five journals that she shared with Harvey Rainbow over Grades [REDACTED] and [REDACTED], but that the journal admitted into evidence is the only one that remained. She had thrown the others out. At the beginning of Grade [REDACTED], she wrote about soccer and things going on in school. In Grade [REDACTED], the journals became a lot more emotional. They dealt with more personal matters and made her feel special, and more important, than the other students. She believed that her relationship with Harvey Rainbow was a lot more important and special than his relationship with other students.

As a result, they discussed personal matters about their families, religion, and faith in God. Harvey Rainbow told her about his health problems. [REDACTED] testified that when her mother found her journal, she was upset. She clarified that the journal her mother found was not the journal admitted into evidence. She confirmed this in cross-examination. [REDACTED] testified that her parents did not have a relationship with any other teacher in the community and Harvey Rainbow's relationship with her was more special than his relationship with her family. [REDACTED] testified that as a result of her mother finding the journal and Harvey Rainbow's coming over, that she felt somewhat guilty for having added stress onto Harvey Rainbow. [REDACTED] couldn't say for certain if she was present for the conversation between Harvey Rainbow and her parents regarding the journals. She stated that after that, there were other discussions between Harvey Rainbow and her parents but they were not lengthy. Harvey Rainbow smoothed the journal issue over with her parents, and she stated that she thought her parents had felt somewhat guilty, that they might have interpreted the journal the wrong way.

[REDACTED] stated that when Harvey Rainbow used the prophecy of danger and the lioness metaphor (Exhibit #12), that he was referring to her mother and the journals again. She felt that the whole situation between Harvey Rainbow and herself wasn't good. She felt sorry for him and didn't know what she should do. She felt she was a big problem for him, and that she couldn't handle it. She stated that she believed that Harvey Rainbow had told a number of other people about their relationship, but she hadn't told anybody. She admitted that looking back, she was not a happy person in grade [REDACTED] because of the stress. She noted a lot of stress in her journal (Exhibit #12), stress she should not have had to go through. "I'm worried about you," she would write all the time to Harvey Rainbow, and she was constantly worrying about what was going on with him. One

night, [REDACTED] stayed over at the Rainbow's as she was going with [REDACTED] to an art show the next day. She stated that she sat up and talked to Harvey Rainbow until 5:00 a.m. She testified that she and Harvey Rainbow didn't want other people to read her journal as it was very personal. Other people shouldn't be reading something that was between her and Harvey Rainbow, who was a relatively important part of her life at that time. She stated that she saw him as a friend, that maybe she had a bit of crush on him, that she was connected to him on a deeper level, and that just not seeing him was somewhat painful. She stated she wondered if someone else would take her place and that just the thought that somebody else would take over her role, that she would become not important when she left [REDACTED], scared her at the time. She didn't want to lose the really important role that she played in his life. She felt lucky she was one of the chosen ones, that Harvey Rainbow had allowed her to be his friend. She stated that at the time, she thought there were more positives to the relationship than griefs, but that she was not sure about that now. She stated that she had a lot of grief, baggage, and problems, which were a lot for her to deal with. Harvey Rainbow was taking on a role in her life he should not have been taking. She confirmed there was a special relationship between him and her. [REDACTED] stated that following the discussion with her family and Harvey Rainbow regarding the journal, that there was still some tension at the beginning but gradually they started getting back together. However, it was never like it had been before.

Vice-Principal Bill Adams testified that one morning in May, 1995, he visited Harvey Rainbow's classroom, came across a blue scribbler, perused it, and showed it to Principal Hough. He testified that the scribbler contained some very inappropriate

comments, touching on personal and emotional issues, the student's family, Harvey Rainbow's family, and that it was not appropriate for a school journal.

Bill Adams stated that he believed many of things he read in the journal were not acceptable, that they were "100% beyond educational expectations, without any doubt in my mind." He had gotten the sense from a particular paragraph, that the student had been counselling the teacher, that Harvey Rainbow had written to the student that she was "incredibly important", and that in some sense she had been talking about the problems adults were having, and that she felt somewhat responsible. He stated that in his opinion, it was absolutely unacceptable for a married man with a family to tell a [REDACTED] year old girl that she was the most wonderful part of his life. Harvey Rainbow indicated that he had a special bond with [REDACTED], that she was a very special person. "You are such a gigantic part of my life...where are you [sic] when I need you" . Bill Adams stated that it was absolutely not acceptable for a student to say "I love you very much" to a teacher. Under cross-examination, Bill Adams testified he took the journal to Principal Brian Hough on that morning in May of 1995, who personally delivered the journal to the Superintendent, Andy Scott. Bill Adams made a copy of the journal before handing it over. He stated that he had been told by Harvey Rainbow in December that [REDACTED]'s journal was much more personal due to Harvey Rainbow's close relationship with her family. When asked if he had forgotten that, he replied that he didn't know whose it was, that he saw the symbol of a key through a heart, and that its contents and the depth of intimacy concerned him.

Principal Hough testified that [REDACTED]'s journal came into his possession. He stated that after viewing its contents he personally delivered it to Andy Scott, the Superintendent.

Harvey Rainbow testified that when [REDACTED] first asked in her journal if he was a Christian, he had some concerns about the appropriateness of any answer, so he went to Ross Fogwell, the local pastor, and asked how to respond. The member stated that as a result of that, he went to see the [REDACTED]'s and spoke to them regarding this going far beyond anything he would be comfortable with in journal writing and asked how they would like him to proceed. He stated that they said [REDACTED]'s faith was strong enough that anything he threw at her, she could overcome, and to go ahead and enter into this written dialogue. These exchanges in the journal continued on the issue of religion and some questions required a personal answer. The journal writing continued throughout remainder of Grade [REDACTED] and well into Grade [REDACTED]. Harvey Rainbow went to church with [REDACTED] several times, and took his young daughter too. As result of attending church, he was quite moved by the entire experience. Harvey Rainbow stated he was most moved by being invited to [REDACTED]'s baptism, and this started him on his own personal faith journey.

On cross-examination, Harvey Rainbow admitted that some language and phraseology he used with [REDACTED] in the journal, was ill-chosen. He stated that [REDACTED]'s journal was not reflective of journals in general. He stated that he got permission from [REDACTED]'s family to discuss, or to allow [REDACTED] to communicate with him, with respect to God. Harvey Rainbow said it was never his purpose to raise the issues of religion, but it had been [REDACTED]'s purpose. He testified that he and the [REDACTED]'s sat down and had a very conservative

conversation in the [REDACTED]'s livingroom and has no memory of [REDACTED] being flabbergasted or outraged. He testified that the discussion centered around whether or not [REDACTED] was prepared to take on the lifestyle of a Baptist and that it dealt with an issue of religion and whether or not [REDACTED] was going to take the step. He stated that with [REDACTED]'s parents' permissions he continued to write back and forth to [REDACTED]

Harvey Rainbow testified that while he was not ashamed of what he had done with [REDACTED], he was certainly not proud of that journal. He stated that [REDACTED]'s relationship with him was different from the relationships with his other students. [REDACTED] was more special. He was best friends with her parents, he had been invited her to christening, she had been the lead in two of his plays, and she was like Mona Lisa. He stated that [REDACTED] did not have crush on him. He stated that he tried to make every student feel special.

Ross Fogwell, pastor, testified that it was [REDACTED] who came to him regarding some of the content of the journal and about how to reply to Harvey Rainbow's comments. Ross Fogwell spoke to [REDACTED]'s mother. [REDACTED], [REDACTED]'s mother, was aware that exchanges were taking place. [REDACTED]'s mother and Harvey Rainbow journalled also, and Harvey Rainbow asked these questions of her as well. [REDACTED] wondered why Harvey Rainbow didn't just go and talk to Ross Fogwell about these things.

#### **FINDINGS OF FACT:**

1. Harvey Rainbow was found guilty of:
  - a) verbally uttering threats to [REDACTED] to cause death to [REDACTED] contrary to the *Criminal Code of Canada*;

- b) on or about September 25, 1995 did commit an assault on [REDACTED] contrary to the *Criminal Code of Canada*; and
- c) On or about October 1, 1995, Harvey Rainbow did commit an assault on [REDACTED] contrary to the *Criminal Code of Canada* (Exhibit #2). He was sentenced to seven months in jail and three years probation.
2. The letters written by Harvey Rainbow to [REDACTED] were found by the Committee to be inappropriate. The Committee accepts that there was a kiss between [REDACTED] and Harvey Rainbow.
  3. Harvey Rainbow used journal writing to initiate a close relationship with two receptive adolescent girls.
  4. Harvey Rainbow used the journal to manipulate an inappropriate relationship with a vulnerable and susceptible female student in his class.
  5. Harvey Rainbow used his special relationships with students [REDACTED] and [REDACTED] to obtain psychological support related to his own personal problems.
  6. Harvey Rainbow initiated discussions on religious issues with a student in his class.
  7. Harvey Rainbow failed to observe the boundaries appropriate to a teachers' interpersonal relationship with students through his journal writing with [REDACTED] and his letters to [REDACTED]
  8. Harvey Rainbow failed to appreciate that the responsibility for maintaining an appropriate relationship with female students was his. He was told by [REDACTED] that [REDACTED] had a crush on him, but Harvey Rainbow did not take appropriate responsibility for that. He had received earlier warnings and had been

- counselled as early as 1989/90 by Principal Ken McCaughan and after that time, by Principal Hough and Vice-Principal Adams.
9. On or between September 1993 and October 1995, Harvey Rainbow engaged in an improper and inappropriate relationship with [REDACTED], in that he consistently abused the relationship of trust and authority between a teacher and a student.
  10. Harvey Rainbow consistently abused the relationship of trust and authority between a teacher and his student during [REDACTED]'s Grade [REDACTED] and Grade [REDACTED] years and early fall of the Grade [REDACTED] year in his escalation of the relationship with [REDACTED]. The member groomed [REDACTED] and became dependent on the student to get through his difficult personal time, in that she was the first non-family member he told about his alleged tumour. The letters read as love letters between two potential partners, one a child the other an adult teacher.
  11. Harvey Rainbow was in the process of grooming [REDACTED] until her parents became concerned and intervened.
  12. The Committee accepts that Harvey Rainbow groomed [REDACTED]
  13. Harvey Rainbow became dependent on students [REDACTED] and [REDACTED] to get him through his difficult personal times.

The Committee relied upon the criminal conviction that Harvey Rainbow did contravene the *Criminal Code of Canada* contrary to Sections 264.1 and 266 – Utter Death Threats and Assault, Level 1, and considered this to be conduct unbecoming a member. That contravention is relevant to his suitability to hold a certificate of qualification and registration. Further, the Committee considers this act to be disgraceful, and conduct unbecoming a member of the Ontario College of Teachers.

The Committee finds that Harvey Rainbow's emotional abuse and grooming of [REDACTED] and [REDACTED] was conduct unbecoming a member of the Ontario College of Teachers.

The Committee notes that Harvey Rainbow did admit that some of the words in the journal were ill chosen. The Committee finds, however, that much of the content of the journal and the message of the journal were an inappropriate communication between a teacher and a student.

It does appear as though most of the numerous letters in Exhibit #4 from Harvey Rainbow to [REDACTED] were written during [REDACTED]'s Grade [REDACTED] year. Even though she was no longer in his classroom at that time, these letters were highly improper between a teacher and a Grade [REDACTED] student.

The Committee finds that Harvey Rainbow committed acts that having regard to all the circumstances would be regarded by members as disgraceful, dishonourable and unprofessional in that he engaged in writing letters with inappropriate messages to [REDACTED] and engaged in inappropriate journal writing with [REDACTED]

The Committee agrees with Dr. Arnold when she stated that she was positively struck by Harvey Rainbow's philosophy of teaching as described in his interview with Investigator Ruth Cohen (Exhibit #14). Dr. Arnold found that when she read the journal, that he had not acted on that philosophy and that he was, at the very least, seriously misguided in his personal interactions with this student. The Committee also

has a concern similar to Dr. Arnold's as to whether or not Harvey Rainbow was then, or is now, aware of the potential severity of personal interactions with the student or if he is oblivious to it.

The Committee agrees with Dr. Perkins who stated that Harvey Rainbow abused his position of trust and authority when he used his status and his daily interaction with students to establish friendships with young girls ([REDACTED] and [REDACTED]) which go beyond that which is appropriate in a classroom between a teacher and his students. The Committee accepts the many examples given by Dr. Perkins in her evidence and in her report (Exhibit #21).

The Committee finds that Harvey Rainbow's explanation (Exhibit #14) to be disgraceful, dishonourable and unprofessional, in which he stated that he does not believe that a teacher has an obligation to distance himself from a student who he knows is infatuated with him and to do everything in his power to stay away from her and to discourage her. The Committee notes that in fact, he stated that to do so "would be the cruelest thing on the face of the earth to do".

Where there was conflicting evidence between Harvey Rainbow and other witnesses, in most instances, the Committee relied on the testimony of other witnesses.

#### **DECISIONS AND ORDERS:**

The Committee finds that Harvey Rainbow failed to maintain the standards of the profession in that he used letter writing and journal writing to exploit the students, [REDACTED]

and [REDACTED], and that his relationship with them, under the guise of journal writing, was inappropriate.

The Committee finds that Harvey Rainbow abused a student or students emotionally in that he created conflict for [REDACTED] and [REDACTED] with their families. He manipulated [REDACTED] and [REDACTED] in order to obtain emotional support for his own personal problems. His manipulation of [REDACTED] continued despite the fact that he was given warnings from [REDACTED]'s mother that [REDACTED] was getting attached to him and had a crush on him.

The Committee also has grave concerns about Harvey Rainbow's apparent inability to grasp the seriousness of his conduct. As early as 1989, he had had conversations with school administration about the perception of his establishing personal contact with students, spending time alone with students, and driving them in his vehicle. In [REDACTED]'s Grade [REDACTED] year, her mother had contacted the school with concerns regarding the relationship that seemed to be developing between her daughter and the member. [REDACTED]'s parents had also spoken with Harvey Rainbow regarding their grave concerns regarding the content of the journal, yet evidence shows that the journal writing continued.

The Committee has doubts as to Harvey Rainbow's credibility, in that:

1. Harvey Rainbow told the Committee that he had the [REDACTED]'s permission to discuss religion in [REDACTED]'s journal. However, the [REDACTED]'s testified that he did not have this permission.
2. Harvey Rainbow told Investigator Ruth Cohen that there had been a kiss, but in his testimony to the Committee, stated that it had never happened.

3. Harvey Rainbow testified that he was very ill during the summer of 1994, couldn't handle heat or cold well, his nipples were lactating, there were days when he literally could not walk, he had trouble getting out of bed, he was sleeping a lot, he suffered from severe migraines and that he had been to an endocrinologist who had told him to go home and put his affairs in order because potentially he had cancer throughout his body. However, [REDACTED] testified that during that summer, Harvey Rainbow was very busy around his property, cutting down trees and generally working on his property. [REDACTED] also testified during 1995, Harvey Rainbow did the same sort of work around his property.
4. Harvey Rainbow testified that [REDACTED]'s father dropped the surety because he was working more hours per day and so was unable to provide proper surety. However [REDACTED]'s father testified that he dropped the surety because he no longer had the confidence that Harvey Rainbow was having no contact with [REDACTED]. In fact, [REDACTED]'s father testified that Harvey Rainbow "would provide snippets of information that in the back of my mind would bother me" and that when he asked Harvey Rainbow about the relationship with [REDACTED], Harvey Rainbow would not deny it.
5. Harvey Rainbow testified that he remained very good friends with the [REDACTED]'s after [REDACTED] found [REDACTED]'s journal. However, [REDACTED] testified that following the finding of the journal, that the [REDACTED]'s did not see the Rainbows very much during the rest of that school year.
6. The Committee has difficulty accepting many of Harvey Rainbow's explanations for the drawings and language used in the letters and the journal. The Committee has specific concerns about his drawing of a key through a heart to [REDACTED] and [REDACTED] which Harvey Rainbow stated was a reference to a book by Ken Weber; about a statement

in [REDACTED]'s journal that the book smelled like her; about his drawing of the plans of his house that he said he was going to build on that property even though he and [REDACTED] would be divorced.

The Committee believes that it is the complete and total responsibility of a teacher of adolescents to be aware of, and deal appropriately with, students who become too emotionally involved with the teacher or who develop "a crush" on the teacher. The Committee accepts that it may be impossible to avoid such a situation. However, teachers of adolescents must be aware of and be sensitive to, such a possibility. Should any concerns ever be raised, a teacher must do his or her utmost to discourage these feelings including eliciting the help of colleagues and/or school administrators. When Harvey Rainbow was confronted by [REDACTED]'s mother about [REDACTED] having a crush, he dismissed the possibility and made no efforts to discourage [REDACTED]. The evidence shows he encouraged and nurtured his relationship with [REDACTED] in order for it to continue and develop.

The Committee does not accept that living and teaching in a small community can somehow justify such conduct.

Accordingly, the Committee finds Harvey James Rainbow guilty of professional misconduct under subsections 1 (5), (7), (16), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke Harvey Rainbow's Certificate of Qualification and Registration immediately. The Committee finds that the Ontario College of Teachers did not provide sufficient evidence to find

Harvey Rainbow guilty under subsection 1(15) of the Professional Misconduct Regulation.

**Notice**

It is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

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. Pursuant to a publication ban ordered by the Ontario Court, General Division, the identities of the students will be referred to only with two initials.

**DATED AT TORONTO, THIS 7th DAY OF JUNE, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Marilyn Laframboise, **Chair**

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George Merrett

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Karen Mitchell