

**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
Mark A. Richards, a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair
 Janet Cornwall
 Ted Coulson

BETWEEN:)	
)	
)	Jane Langford, McCarthy
)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS)	Teachers, assisted by Jennifer
)	Robinson, Law Clerk
)	
- and -)	
)	Mark A. Richards was not present,
MARK A. RICHARDS)	nor was he represented.
(CERTIFICATE #189476))	
)	
)	Christopher Wirth, Stockwoods,
)	Independent Legal Counsel
)	
)	Heard: May 4, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came before a panel of the Discipline Committee for a hearing on May 4,
2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated November 5, 2003 was served on Mark A. Richards, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 3, 2003 to set a date for a hearing, and specifying the charges.

Mark A. Richards was not in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. **(Exhibit 1)**

The Allegations

The allegations against Mark A. Richards in the *Notice of Hearing*, dated November 5, 2003, are as follows:

IT WAS ALLEGED that Mark A. Richards is guilty of professional misconduct as defined in section 30 (2), and/or is incompetent as defined in section 30 (3) of 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 particularly section 264 (1) (c) thereof, 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);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19); and
- (f) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

At the hearing, Counsel for the College withdrew the allegations of incompetence as set out in (f) above and as set out in the *Notice of Hearing*.

Agreed Statement of Facts

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced as **Exhibit 2**, an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*.

The *Agreed Statement of Facts* provides as follows:

1. Mark A. Richards ("the Member"), is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit 2, Tab A** is a copy of the Ontario College of Teachers Registry Status Information respecting the Member.

2. At all material times, the Member was employed by the Ottawa-Carleton District School Board (“the Board”), and teaching English at Canterbury High School (“the School”), in Ottawa, Ontario.

3. During the 2000/2001 school year, the Member engaged in inappropriate conversations and contacts with a number of his female OAC students. For example, the Member:

- (a) sought out students at their places of employment;
- (b) provided an unsolicited gift to a student;
- (c) engaged students to undertake personal errands;
- (d) invited students on out-of-school trips;
- (e) inappropriately revealed information about student performance; and
- (f) used language in conversation with his students that could be interpreted by them to bear innuendo or be too personal.

4. By his conduct, the Member failed to respect well-recognized boundaries of appropriate teacher-student relationships and in so doing, put his students at risk of misinterpreting his motives and of being distracted from more appropriate academic and co-curricular pursuits.

5. When the inappropriate conduct above was brought to the attention of School administration, an investigation was undertaken. The Member was expressly advised by his Principal not to communicate with any of the students about the investigation. Despite such warning, the Member contacted at least two of the students to discuss the ongoing investigation

6. On October 24, 2001, the Member received a 20-day suspension, without pay, from the Board for his lapses in professional judgment.
7. The Member resigned his employment with the Board effective January 10, 2003.
8. Throughout the course of the College's investigation, the Member co-operated with the College.
9. By this document, the Member states that:
 - (a) he understands the nature of the allegations that have been made against him;
 - (b) he understands that by not contesting the allegations, he waives his right to require the College to prove the case against him and waives his right to have a hearing;
 - (c) he voluntarily decided not to contest the allegations made against him;
 - (d) he understands that the Discipline Committee can accept as correct the facts alleged against him for the purposes of this proceeding only;
 - (e) he understands that the Discipline Committee can accept that those facts constitute professional misconduct for the purposes of this proceeding only;
 - (f) he understands that the Discipline Committee can dispose of the issue of what finding ought to be made without a hearing;
 - (g) he understands that depending on the penalty ordered by the Discipline panel, that the panel's decision and a summary of its reasons may be published, including the facts contained herein and the Member's name in full, in *Professional Speaking/Pour parler profession*; and

- (h) he understands that any agreement between the College and defence counsel with respect to the penalty proposed does not bind the Discipline panel.

10. By this document, the Member pleads no contest to the facts referred to in paragraphs 1 to 7 above.

Member's Plea

The Member, Mark A. Richards, accepts that the matters referred to in paragraphs 3, 4 and 5 above constitute professional misconduct and pleads no contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19) as set out in the Notice of Hearing dated November 5, 2003.

Joint Submission as to Resolution and Penalty

In light of the Member's plea of no contest, the Ontario College of Teachers and the Member submit that the Discipline Committee may accordingly treat the matters referred to in paragraphs 3, 4 and 5 above as constituting professional misconduct and may find the Member guilty of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1 (5), 1 (7), 1 (14), 1 (15), 1 (18) and 1 (19).

The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:

- (a) accept the Member's voluntary resignation of his Certificate of Qualification and Registration effective immediately upon a finding of professional misconduct, which Certificate of Qualification and Registration shall immediately be surrendered by the Member to the Registrar;
- (b) accept the Member's undertaking that he will not seek reinstatement of his Certificate of Qualification and Registration for two (2) years from the date of this Order;
- (c) direct the Registrar of the Ontario College of Teachers to make a notation on the register that the Member voluntarily resigned his Certificate of Qualification and Registration following the finding of professional misconduct by the Discipline Committee, which notation to include the Member's undertaking not to seek reinstatement of his Certificate of Qualification and Registration for a period of two (2) years from the date of any such Order; and
- (d) direct that the finding and order of the Committee be published with the full name of the Member in the official publication of the College, *Professionally Speaking / Pour parler profession.*

Decision as to Finding

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Mark A. Richards committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(18) and 1(19).

Decision as to Penalty

The Committee accepts the joint submission as to penalty and accordingly:

- (a) accepts the Member's voluntary resignation of his Certificate of Qualification and Registration effective immediately upon a finding of professional misconduct, which Certificate of Qualification and Registration shall be surrendered immediately by the Member to the Registrar and cancelled;
- (b) accepts the Member's undertaking that he will not seek reinstatement of his Certificate of Qualification and Registration for two (2) years from the date of this Order;
- (c) directs the Registrar of the Ontario College of Teachers to make a notation on the Register that the Member voluntarily resigned his Certificate of

Qualification and Registration following the finding of professional misconduct by the Discipline Committee, which notation is to include the Member's undertaking not to seek reinstatement of his Certificate of Qualification and Registration for a period of two (2) years from the date of this Order; and

- (d) directs that the findings and order of the Committee be published with the full name of the Member in the official publication of the College, *Professionally Speaking / Pour parler profession.*

Date: May 4, 2004

Nancy Hutcheson
Chair, Discipline Panel

Janet Cornwall
Member, Discipline Panel

Ted Coulson
Member, Discipline Panel