

**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
Frank Angelo Sacino, a member of the Ontario College of
Teachers.

PANEL: Nancy Hutcheson, Chair
Dick Malowney
Karen Mitchell

BETWEEN:)	
)	
	)	Caroline Zayid,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Eric Block
)	
- and -)	
)	
FRANK ANGELO SACINO	)	William Markle,
(CERTIFICATE #193073)	)	Markle May Phibbs,
	)	for Frank Angelo Sacino,
	)	assisted by Donna Ptak
)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: October 21, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 21, 2004 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated November 5, 2002 was served on Frank Angelo Sacino, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 4, 2002 for a hearing, and specifying the charges. The hearing was subsequently set for October 21, 2004.

Frank Angelo Sacino was in attendance at the hearing.

The Allegations

The allegations against Frank Angelo Sacino in the *Notice of Hearing*, dated November 5, 2002, are as follows:

IT IS ALLEGED that Frank Angelo Sacino is guilty of professional misconduct as defined in sections 30(2) and 40 (1.1), 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, and 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);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19);

- (f) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the Act; and
- (g) 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, the Committee permitted the College to withdraw the allegations of professional misconduct as set out paragraphs (b), (c), (f) and (g) in the *Notice of Hearing*, which alleged breaches of Ontario Regulation 437/97, subsections 1(7), 1(14), 1(15); and that he engaged in sexual abuse of students of a nature defined in sections 1 and 40(1.1) of the Act; and that 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.

Publication Ban

On October 21, 2004 the Committee made an order that there be no publication of any information that may disclose the identities of the students involved in this matter.

Agreed Statement of Facts

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced as *Exhibit 2, an Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty. (ASF – Exhibit 2)*.

The *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty* provides as follows:

1. Frank Angelo Sacino (the "Member"), is a member of the Ontario College of Teachers. Attached hereto is a copy of the Ontario College of Teachers Registered Member Information of the Member. (*ASF – Exhibit 2, Tab A*).
2. At all material times, the Member was employed by the Halton Catholic District School Board.

Conduct During the 1996-1997 School Year

3. From September 1, 1990 to June 30, 1999, the Member taught at St. Thomas Aquinas School ("St. Thomas Aquinas").
4. [] was a male student in the Member's [] class at St. Thomas Aquinas during the second semester of the 1996/1997 academic year. Specifically, the semester began at the beginning of February. For the reasons set out below, [] left the Member's class at the March Break.
5. During that time, the Member touched [] on []'s shoulders and arms. The Member made physical contact with []. The Member also made physical contact with other students.
6. On one occasion, after [] made a joke in class, the Member came from behind [] (who was sitting), placed his arms around him, and kissed [] on the right cheek. This occurred in the presence of the other students in the class.
7. On two occasions, the Member asked [] to stay behind after class. On those occasions, the Member spoke to [] about personal matters.
8. As a result of the Member's physical contact, [] reported the matter to school authorities and ceased attending the Member's classes.
9. The allegations were investigated by the Principal of the school. At the Member's request, the Board's Superintendent met with the Member to review the outcome of the investigation. On October 31, 1997, a school board official

wrote to the Member setting out expectations for teachers concerning interactions with students. (*Exhibit 2, Tab B*).

Conduct in the 1999/2000 School Year

10. From September 1, 1999 to June 8, 2001, the Member was an English teacher at Assumption Roman Catholic Secondary School (“Assumption”) as well as a staff supervisor of the lacrosse team and several school drama productions.
11. In November 1999, the Board received a complaint concerning harassment of a student by the Member. The complaint related to the content of a class taught by the Member.
12. The allegations were investigated by the Board.
13. As a result of the allegations, the Member acknowledged that he had engaged in inappropriate conduct. The Member agreed to apologize to the student in question.
14. The Member also agreed to complete some personal counselling. Six sessions were satisfactorily completed. The counselling did not specifically address student-teacher boundaries.

Conduct in the 2000/2001 School Year

(a) [REDACTED]

15. [REDACTED] was a male student of the Member’s [REDACTED] class at Assumption during the 2000/2001 academic year.
16. Starting in November 2000 and continuing to the second semester, [REDACTED], [REDACTED], and two other students stayed after class to talk with the Member. Before they left the classroom, the Member often asked the students, including [REDACTED], to hug him. [REDACTED] and the others did so. On some occasions, the hugs were initiated by the students.

17. Beginning in the second semester, the Member telephoned [REDACTED] at his home from time to time. [REDACTED] also called the Member at home.
18. After rehearsing for a play, [REDACTED], the Member occasionally drove [REDACTED] home. No one else was in the car during these drives, which occurred after approximately 6:00 p.m. On other occasions, the Member drove other students as well.
19. On one evening, prior to an English examination, [REDACTED], [REDACTED] and another student, called the Member at home from [REDACTED]'s home to ask about the exam. During the course of the conversation the Member hinted at the poem, which would be on the exam.
20. After rehearsing for another production [REDACTED] (following the collapse of [REDACTED]), the Member drove [REDACTED] home on several occasions.
21. On one occasion in March 2001, while in the Member's car returning from play rehearsal, [REDACTED] kissed the Member on the cheek.
22. During the course of the school year the Member joked in his OAC English class that [REDACTED] and [REDACTED] (the male student referred to in paragraphs 24 to 39 below) were a couple. This made the students uncomfortable.
23. Following the incidents described above, [REDACTED]'s [REDACTED] marks began to slip; he started sleeping during the day and his schoolwork suffered as a result.

(b) [REDACTED]

24. [REDACTED] was a male [REDACTED] student of the Member's [REDACTED] class at Assumption during the 2000/2001 academic year.
25. During the first semester, the Member asked [REDACTED] if he "worked-out". Upon responding in the affirmative, the Member lifted up [REDACTED]'s shirt and touched [REDACTED]'s abdomen. [REDACTED] responded by touching the Member's abdomen.

26. During the first semester, [] and [] stayed behind after class to talk with the Member. The Member gossiped with [] and [] about teachers at Assumption, and about rumours the students had heard about the Member.
27. During the first semester, in the presence of other students, the Member began to hug []. When [] first hugged the Member, the Member said it was not good enough. The Member asked [] to hug him again.
28. In December 2000, the Member gave [] a Christmas gift, including a book entitled *Don't Sweat the Small Stuff*, as well as a Christmas card with a handwritten note.
29. The Member called [] at his place of part-time employment on several occasions from December 2000 to March 2001.
30. While [] was at []'s home working on a school project, the Member called []'s home.
31. From April 9, 2001 to May 27, 2001, the Member and [] frequently communicated about personal matters using an internet programme, known as "I.C.Q." These communications took place late at night. On I.C.Q., the Member often used the nickname [].
32. During the second semester, the Member occasionally telephoned [] at []'s home phone between 9:00 p.m. and 1:00 a.m., including on weekdays. During these calls, the Member would suggest going out with [], including to the movies.
33. On at least two occasions during the second semester, the Member blocked the classroom exit when [] refused to hug the Member. Other students were also in the classroom at the time.

34. On one occasion in the evening, the Member communicated with [REDACTED] by telephone and computer and suggested that they go to the library together to work on an Independent Study Unit (ISU), which was a project for his [REDACTED] class.
35. On one occasion, while sitting down and speaking to the Member, [REDACTED] started to cry. The Member proceeded to stand behind [REDACTED], knelt down, and wrapped his arms around him.
36. On one late afternoon in May 2001, the Member took [REDACTED] to a Maple Leafs' game. He had first called [REDACTED]'s mother to ask for her approval, which approval she granted.
37. Prior to attending the game, [REDACTED] accompanied the Member to his apartment to allow the Member to change. The Member and [REDACTED] hugged by the front door of the inside of his apartment.
38. On one occasion, [REDACTED] met the Member at a Chinese restaurant. The purpose of the meeting was for [REDACTED] and the Member to work on the ISU.
39. After dinner, the Member took [REDACTED] to Tim Horton's to work on the ISU. They talked about the ISU briefly. They also talked about personal matters.

(c) [REDACTED]

40. [REDACTED] was a male student of the Member's [REDACTED] class at Assumption during the second semester of the 2000/2001 academic year.
41. On one occasion, soon after the murder of an Assumption student, the Member asked [REDACTED] and [REDACTED] ([REDACTED]'s best friend) to stay behind after class. Following some discussion, the Member told [REDACTED] and [REDACTED] to stand up so that he could give them each a hug.
42. The Member gave [REDACTED] a hug and kissed [REDACTED] on the head. At the same time, the Member also hugged [REDACTED] and kissed [REDACTED] on the head.

(d) [REDACTED]

43. [REDACTED] was a male student of the Member's [REDACTED] class during the second semester of the 2000/2001 academic year. [REDACTED] and [REDACTED] were in that class together.
44. On one particular occasion, in April 2001, students in the [REDACTED] class were making oral presentation of their ISUs. The Member warned the students not to talk during a presentation, and threatened to deduct marks from their own presentation if they talked during their classmates' presentations.
45. During one presentation, while handouts were being distributed, [REDACTED] was speaking with his neighbour to the left. Then, the Member struck [REDACTED] with a paperback book on the right side of the back of his head, including his ear area. When class ended, [REDACTED] stayed behind to discuss the incident with the Member, who apologized for embarrassing [REDACTED]. The Member stated that the contact was not that hard.
46. On many previous occasions, [REDACTED] had spoken out in class and the Member had warned [REDACTED] to stop talking.

The Criminal Proceedings

47. On February 6, 2002, the Member was charged by Halton Regional Police Service with 5 counts of sexual assault; 2 counts of sexual exploitation; and 1 count of common assault.
48. The criminal trial was heard before Madame Justice Van Melle in late 2003 early 2004. Justice Van Melle delivered her decision on March 25, 2004. (*Exhibit 2, Tab C*).
49. The Member was acquitted on all counts. Justice Van Melle held that she could not conclude, beyond a reasonable doubt, that the Member's physical touching of the students was sexual in nature. She further observed that some of the

incidents were capable of different interpretations. She also stated that she was concerned that there was an element of collusion of, and embellishment by, the witnesses, and that the evidence of [■] and [■] was tainted. With respect to the common assault charge in connection with [■], the Justice held that the Member used reasonable force.

50. Nevertheless, Justice Van Melle stated that the Member's behaviour was "ill-considered" and may constitute grooming, which is not a criminal offence. She concluded the judgment by observing that "the conduct of the accused demonstrates a total lack of good judgment and in the context of the teacher-student relationship is deserving of censure."

Guilty Plea

By this document, the Member, Frank Angelo Sacino, accepts that the matters referred to in paragraphs 5, 6, 7, 11, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42 and 45 above cumulatively constitute professional misconduct and pleads guilty to professional misconduct in breach of Ontario Regulation 437/97 subsections 1(5), 1(18) and 1(19), as set out in the *Notice of Hearing*.

By this document, the Member states that he:

- (a) understands fully the nature of the allegations that have been made against him and voluntarily signed the Agreed Statement of Facts;
- (b) understands that by signing this Agreed Statement of Facts, he is consenting to the evidence as set out in that document being presented to the Discipline Committee;
- (c) understands that, depending on the penalty ordered by the Discipline Committee, the Committee's decision and a summary of its reasons may be published in *Professionally Speaking/Pour Parler Profession*, including reference to his name;

- (d) 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; and
- (e) voluntarily decided to plead guilty.

Member's Plea

The Member, Frank Angelo Sacino, accepts that the matters referred to in paragraphs 5, 6, 7, 11, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42 and 45 above cumulatively constitute professional misconduct and pleads guilty to professional misconduct in breach of Ontario Regulation 437/97 subsections 1(5), 1(18) and 1(19), as set out in the *Notice of Hearing*.

Joint Submission as to Finding

In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(18), and 1(19) as set out in the *Notice of Hearing*.

Decision as to Finding

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, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Frank Angelo Sacino committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(18) and 1(19).

Joint Submission on Penalty

The parties jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Discipline Committee:

1. require the Member to appear before the College to be reprimanded, such reprimand to be recorded on the Register;
2. direct the Registrar to impose the following terms, conditions or limitations on the Member's certificate:
 - (a) that the Member shall enrol, at his own expense, in a program of study and counselling concerning appropriate student/teacher boundaries, such program to be determined in the sole discretion of the Registrar;
 - (b) that upon completion of the program, the Member shall provide to the Registrar such evidence of successful completion as the Registrar requires and the Registrar shall have sole discretion to determine whether the program has been successfully completed;
 - (c) that the Member shall not return to teaching or to any position requiring a certificate of qualification and registration under this Act, until the program has been successfully completed as described in paragraph (b) above, or until September 2005, whichever is later;
3. direct that the findings and order of the Committee, including the Member's full name, be published in the official publication of the College, *Professionally Speaking/Pour parler profession.*

Penalty Decision

The Committee accepts the Joint Submission on Penalty and makes the following order:

1. The Member is to appear before the Discipline Committee immediately upon adjournment of this hearing to be reprimanded, and the fact of the reprimand is to be recorded on the Register of the College for a period of one year; and
2. The Registrar is directed to impose the following terms, conditions or limitations on the Member's certificate:
 - a. That the Member shall enrol, at his own expense, in a program of study and counselling concerning appropriate student/teacher boundaries, such program to be determined at the sole discretion of the Registrar;
 - b. That upon completion of the program, the Member shall provide to the Registrar such evidence of successful completion as the Registrar requires and the Registrar shall have sole discretion to determine whether the program has been successfully completed;
 - c. That the Member shall not return to teaching or to any position requiring a certificate of qualification and registration under this Act, until the program of study and counselling has been successfully completed or until September 2005, whichever is later.
3. Pursuant to Section 30(5) (iii) of the Ontario College of Teachers Act, the findings and order of the Discipline Committee are to be published in summary, including the Member 's name, in the official publication of the College, *Professionally Speaking/pour parler profession.*

Reasons for Decision

The Committee concluded that the proposed penalty is reasonable and serves and protects the public interest. Frank Angelo Sacino has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions.

The order meets the objective of general deterrence and sends a clear message to members to maintain appropriate boundaries between students and teachers.

The order meets the objective of specific deterrence to the Member in that it sends a message to this Member that his conduct is not acceptable, by reprimanding him and preventing his return to teaching, until September 2005, at the earliest.

Date: November 10, 2004

Nancy Hutcheson
Chair, Discipline Panel

Dick Malowney
Member, Discipline Panel

Karen Mitchell
Member, Discipline Panel